



Response to Request for Information

Reference FOI 091541
Date 9 September 2015

Facilities Management

Request:

Please provide the information for A & B only.

Please can you provide me with the organisation's existing contracts relating to facilities management for each of the categories below:

- A. Property and Building Services Maintenance
- B. Cleaning and Janitorial Services

For each of the contract above can you please provide me with the organisation's primary/main contracts that are above £1,000.00. If there isn't

1. What is the type of contract please pick from one of the categories above? If the organisation has a fully managed contract please state "Managed".
2. Who is the supplier for this contract? Please can you provide me with the contract information for each individual supplier?
3. What is the annual average spend? Please can you provide me with the contract information for each individual supplier?
4. What is the contract duration? Please also provide me with any extensions that maybe offered to the supplier.
5. What is the contract expiry date? Please at least provide me with the month and year.
6. When will this contract be reviewed? Please at least provide me with the month and year.
7. Can you please provide me with the total number of sites the contract covers? An estimate will also be acceptable.

8. What services are provided under this contract? A brief description will be acceptable
9. Who is the main contact from within the organisation responsible for reviewing this contract? Can you please provide me with their full name, actual job title, contact number and direct email address?
10. Notes: If the contract information provided is going to be expiring within the next 3 months it would be helpful to know if you're going to renew or are planning to go to tender for a new contract for this particular service.

The contracts shown below are above £1,000.00. However, in this instance, the Council is not able to disclose some the information held in the contracts below. The information is caught by the exemption to disclosure in Section 40 (2) of the Freedom of Information Act 2000.

To explain further, a disclosure made under the provisions of FOI is judged to be a disclosure to the wider world and here the Council must consider disclosure of personal information in line with the provisions of the DPA.

JCT Contract

Between

Wolverhampton City Council (1)

And

RMC Mechanical Services Ltd (2)

Measured Term Contract

For

Mechanical Heating Repair.



This contract has been amended from the original template.

MTC

2006

Measured Term Contract

Revision 2 2009

Measured Term Contract

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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For details of Revision 2 changes, see the Measured Term Contract Guide (MTC/G).

www.jctcontracts.com

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Articles of Agreement

This Agreement is made the 23rd August 20 11

Between

The Employer Wolverhampton City Council
of St Peter's Square Wolverhampton WV1 1RL

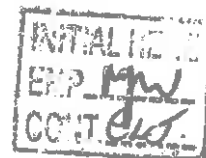


And

The Contractor RMC Mechanical Services Limited

(Company No. 5470580)¹¹

whose registered office is at Unit 19 Landport Road Industrial Estate Bilston Road
Wolverhampton WV2 2QJ



¹¹ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

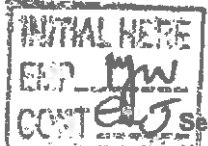
Recitals

Whereas



First

the Employer requires Mechanical and Heating Repair, maintenance and minor works to be carried out in:



Second

Zone 1 Wolverhampton as defined in the Tender Documents (page A/2 and Appendix 4) ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;

the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;

Third

the Employer has appointed a Contract Administrator to Issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;

Fourth

the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(1) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;

Fifth

the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;

Sixth

the Supplemental Provisions Identified in the Contract Particulars apply;

Articles

Now It is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin, Head of Service, Property Design & Commissioning

of Wolverhampton City Council St Peter's Square Wolverhampton WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.



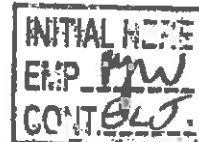
Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Limited

of Red Hill House 227 London Road Worcester WR5 2JG

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(1) of those regulations.



Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(2) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies²⁴, then, subject to Article 6 and the exceptions set out below, any dispute

²⁴ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings¹⁷¹

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

¹⁷¹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

INITIAL HERE
EMP. mw
CONT. els

or such replacement as each Party may
notify to the other from time to time

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EMP. mw
CONT. els

Contract Period^[1]
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be four years

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EMP. mw
CONT. els

commencing on 1 July 2011

Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9-3 to 9-8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9-3 to 9-8 apply.)^[2]

Article 7 and clauses 9-3 to 9-8 (Arbitration)
apply

5 Orders – minimum and maximum value
(Clause 2.4)

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EMP. mw
CONT. els

Minimum value of any one Order to be issued
£25 (words twenty-five pounds)

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CONT. els

Maximum value of any one Order to be issued
£250,000 (words two hundred and fifty thousand pounds)

6 Orders – value of work to be carried out
(Clause 2.5)

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EMP. mw
CONT. els

Approximate anticipated value of work to be carried out under this Contract

£600,000 (Alternative 'A') £1,000,000 (Alternative 'B') (words Six hundred thousand pounds (Alternative 'A') One million pounds (Alternative 'B')) per annum

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EMP. mw
CONT. els

7 Orders – priority coding^[3]
(Clause 2.6)

As stated in the Tender Documents

8 Construction Industry Scheme (CIS)
(Clause 4.2)

The Employer at the commencement of the Contract Period

* is a 'contractor'

^[1] The period is envisaged as normally being at least one year.

^[2] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].

^[3] To be completed if the Employer requires; as an example the code might be:

- 'A': response time to be 4 hours;
- 'B': to be commenced within 2 days;
- 'C': to be commenced within 14 days;
- 'D': to be commenced as agreed.

for the purposes of the CIS

9 Progress payments (Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for (If none is stated, it is £2,500.)

£5,000 (five thousand pounds)

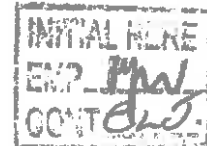


10 Responsibility for measurement and valuation (Clause 5-2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * The Contract Administrator shall measure and value all Orders.
* The Contract Administrator shall measure and value each Order with an estimated value of £... or more; the Contractor shall measure and value all other Orders.
* The Contractor shall measure and value all Orders

11 Schedule of Rates (Clauses 5-3, 5-6-1 and 5-6-2)



1 The Schedule of Rates is

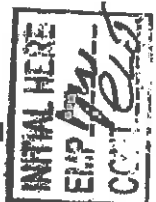
- * the National Schedule of Rates

subject to adjustment of the rates listed in that Schedule by the addition

of the Adjustment Percentage, which is As stated in the Tender Documents per cent

2 Where the Schedule of Rates is the National Schedule of Rates the version(s) Identified opposite are to apply

- * National Schedule of Rates (Mechanical Services in Buildings)



3 Rates - Fluctuations

Clause 5-6-1 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * does not apply

4 Basis and dates of revision Not applicable.

12 Daywork (Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation - percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Delete all versions that do not apply. See also footnote [4].

MW
ELO

Overheads and profit on Materials

As stated in the Tender Documents per cent

MW
ELO

Overheads and profit on Plant, Services and Consumable Stores

As stated in the Tender Documents per cent

MW
ELO

Overheads and profit on Sub-Contractors

As stated in the Tender Documents per cent

Revision of Schedule of Hourly Charges

Clause 5-6-3
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

applies

INITIAL HERE
EMP *MW*
CONT *ELO*

The annual revision date is

As stated in the Tender Documents

The basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges⁽¹⁾

is set out in the following document
As stated in the Tender Documents

13 Overtime work (Clause 5-7)

Not applicable.

14 Insurance (Clauses 6-4-1-2, 6-9 and 6-11)

INITIAL HERE
EMP *MW*
CONT *ELO*

-1 Insurance cover for any one occurrence or series of occurrences arising out of one event

£5,000,000

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EMP *MW*
CONT *ELO*

-2 Percentage to cover professional fees

15 (fifteen) per cent

-3 Annual renewal date of insurance as supplied by the Contractor

15 Break Provisions - Employer or Contractor (Clause 7-1)

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EMP *MW*
CONT *ELO*

The period of notice, if less than 13 weeks, is

9 (nine) months weeks

16 Settlement of Disputes (Clauses 9-2, 9-3 and 9-4-1)

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CONT *ELO*

Adjudication⁽¹⁾⁽²⁾

The Adjudicator is

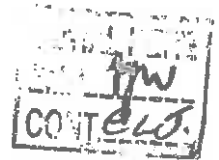
⁽¹⁾ If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

⁽²⁾ The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)¹¹¹

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Construction Confederation~~
- * ~~National Specialist Contractors Council~~
- * ~~Chartered Institute of Arbitrators~~

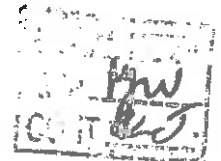


Arbitration¹¹²

Appointor of Arbitrator (and of any replacement)¹¹³

(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- * ~~President or a Vice-President:~~
- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Chartered Institute of Arbitrators~~



¹¹¹ Delete all but one of the nominating bodies asterisked.

¹¹² This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (*Arbitration*) apply.

¹¹³ Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 1 Wolverhampton City Council

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

In the presence of



Signature

Authorised Officer

~~Signature~~

~~Company Secretary/Director~~

322/11



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

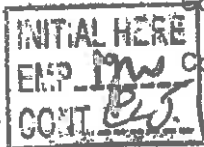
Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions, <u>the completed Contract Particulars and the Schedule of Rates and all Sections of this Document.</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (item 3) .
Contractor:	the person named as Contractor in the Agreement.



Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (item 11-2) .
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on written instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ^[14]
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11) , together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixated materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

^[14] Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6 Unless otherwise provided in these Conditions, any notice or other communication under this Contract may be given or served by any effective means to the recipient at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1.7 This Contract shall be governed by and construed in accordance with the law of England.^[16]

^[16] Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator in writing; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall inform the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled

to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date^[19] and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a written notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator under this Contract that is not due to a default of

^[19] Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

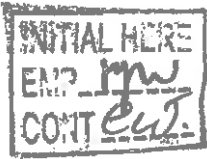
the Contractor), the Contract Administrator shall in writing fix such later date for completion as may be fair and reasonable. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 ·1 The Contractor shall notify the Contract Administrator in writing the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent in writing, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor in writing and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 12 (twelve)6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.



Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the written consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior written consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time in writing require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required in writing under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it in writing.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may, in writing, cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for

payment by the Employer under that clause, any work or supply which in his opinion has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue written instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a written notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project^[17] that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase^[18];
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 ·1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal

^[17] The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

^[18] There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor, the Employer shall immediately upon such further appointment notify the Contractor in writing of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (Item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make a written application to the Contract Administrator for a progress payment in respect of that Order for the work carried out or supplies made by the Contractor pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, after taking into account any amounts previously certified in respect of the Order.
 - 2 Within 14 days of receipt of an application under clause 4-3-1 the Contract Administrator shall issue a certificate for payment by the Employer under clause 4-6, which states his estimate of the value of the work and/or supplies referred to in the Contractor's application, after taking into account any amounts previously certified. The certificate shall state the basis on which that estimate has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;
 - 2 if the Contract Administrator does not certify in accordance with clause 4-4-1, the Contractor may give notice to the Contract Administrator that if the certificate in respect of the completed Order is not received within 14 days of the date of that notice the Contractor may arrange for measurement and valuation of the Order and the submission of an account for it; within 7 days of receipt of such account the Contract Administrator shall certify the value of the completed Order, giving the particulars required by clause 4-4-1;
 - 3 if any such account from the Contractor is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should have been included in it, then, whether or not it has been certified, it shall be amended and the provisions of clause 4-5-3-1 shall apply to payment of it by the Employer.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contractor shall submit his account for the completed Order;
 - 2 within 28 days of receipt of that account the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was

calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;

- 3 if an account submitted by the Contractor pursuant to clause 4-5-1 is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should properly have been included in it, that account, whether or not it has been certified, shall be amended and the Employer:
 - 1 shall only be required to pay the corrected account or, if the uncorrected account has been paid, shall be entitled, subject to giving notice in accordance with clause 4-6-3, to recover the excess by withholding and/or deduction from any amount due or to become due to the Contractor under this Contract or may recover that excess from the Contractor as a debt; and
 - 2 may, subject to clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in finding the error;
- 4 if the Contractor fails to submit an account in accordance with clause 4-5-1 and if at the end of 28 days notice subsequently given to the Contractor by the Contract Administrator the Contractor has still failed to submit the account, the Contract Administrator may arrange for the measurement and valuation of the relevant work and/or supply and prepare the account for certification under clause 4-5-2. The Employer may, subject to giving notice in accordance with clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in respect of the measurement, valuation and preparation of the account.

Payment of certificates

- 4-6 -1 The final date for payment pursuant to any certificate issued by the Contract Administrator shall be 14 days from the date of issue of that certificate.
- 2 Not later than 5 days after the date of issue of a certificate the Employer shall give a written notice to the Contractor which shall, in respect of the amount stated as due in that certificate, specify the amount of the payment proposed to be made, to what the amount relates and the basis on which the amount has been calculated.
- 3 Not later than 5 days before the final date for payment the Employer may give a written notice to the Contractor which shall specify any amount proposed to be withheld or deducted from the amount due, the ground or grounds for such withholding or deduction and the amount of withholding or deduction attributable to each ground.
- 4 Subject to any notice given under clause 4-6-3, the Employer shall no later than the final date for payment pay the Contractor the amount specified in the notice given under clause 4-6-2 or, in the absence of a notice under clause 4-6-2, the amount stated as due in the certificate.
- 5 If the Employer fails properly to pay the amount, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to the amount not properly paid, pay the Contractor simple interest at the Interest Rate for the period until payment is made. Interest under this clause 4-6-5 shall be a debt due to the Contractor by the Employer. Acceptance of a payment of interest under this clause 4-6-5 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.

Contractor's right of suspension

- 4-7 Without affecting the Contractor's other rights and remedies, if the Employer, subject to any notice issued pursuant to clause 4-6-3, fails to pay the Contractor in full (including any VAT properly chargeable in respect of such payment) by the final date for payment as required by these Conditions and the failure continues for 7 days after the Contractor has given written notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend such performance until payment is made in full.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order; or
- 2 the addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents Included in an Order.

Measurement and Valuation – responsibility

5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him in writing) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars⁽¹⁰⁾.
 - 2 The Contractor shall give to the Contract Administrator reasonable notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and the Contractor shall deliver to the Contract Administrator for verification not later than 7 Business Days after the work has been executed return(s) in the form required by the Contract Administrator specifying the time daily spent upon the work, the workmen's names, and the plant, materials and other items employed. If approved by the Contract Administrator, the return(s) shall be copied to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

⁽¹⁰⁾ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6
- 1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year or such other annual revision date as is stated in that item in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed in writing by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (Item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's Insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[20], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 14-1) for any one occurrence or series of occurrences arising out of one event.^[21]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[20] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[21] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site, or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance^[22]: insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[23];

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks: ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

Joint Names Policy: a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an

^[22] Clause 6-6 defines by exclusions the risks that All Risks Insurance is required to cover: the required cover includes loss or damage caused by or arising from terrorism. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance. In particular the Parties should note the potential difficulty with respect to Terrorism Cover. Obtaining Terrorism Cover, which is necessary in order to comply with the insurance requirements, will involve an additional premium and may in certain situations be difficult to effect. The exclusion of any element from the All Risks Insurance and its 'buy back' requires discussion between the Parties and their insurance advisers; these are matters that need to be arranged between the Parties and those advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[23] In any policy for All Risks Insurance taken out under clause 6-9, cover should not be reduced by the terms of any exclusion written in the policy beyond the terms of paragraph (b) in this definition of All Risks Insurance; thus an exclusion in terms 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of that clause or of that definition. Wider All Risks cover than that specified may be available to Contractors, though it is not standard.

insured, or recognised as an insured thereunder.

Specified Perils: fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.

Terrorism Cover: insurance provided by a Joint Names Policy under clauses 6-7 and 6-9 for physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials or to an existing structure and/or its contents caused by terrorism.^[24]

Insurance of existing structures^[25]

- 6-7 -1 The Employer shall take out and maintain a policy of insurance (unless he has already done so) in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[26], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but that work or supply in respect of such properties pursuant to this Contract may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

- 6-8 -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by him in respect of the premiums pursuant to clause 6-8-1 shall be payable by the Employer to the Contractor and shall be recoverable from the Employer as a debt.
- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

^[24] As respects this definition, the extent of Terrorism Cover and possible difficulties in complying with the insurance requirements, see footnote [22] and the Measured Term Contract Guide.

^[25] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[26] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

- 6-9** The Contractor shall take out (unless he has already done so) and shall maintain with Insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6^[27] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (Item 14-2) to cover professional fees)^[28] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10** The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11** If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:
- 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
 - 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

- 6-12** The Contractor shall before commencing to carry out the first Order under this Contract inform the Insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13**
- 1 If loss or damage affecting any executed work or supplies made pursuant to an Order or Site Materials is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice in writing both to the Contract Administrator and to the Employer of its extent, nature and location.
 - 2 Subject to clauses 6-13-4 and 6-15-4-2, the occurrence of such loss or damage shall be disregarded in computing any amounts payable to the Contractor under this Contract.
 - 3 After any inspection required by the Insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged supplies made or Site Materials, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
 - 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Except where the Employer cancels the Order affected by such loss or damage the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under certificates of the Contract Administrator.

^[27] In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [22].

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – premium rate changes

- 6-14 ·1 If the rate on which the premium is based for Terrorism Cover required under the Joint Names Policy referred to in clause 6-9 or 6-11 is varied at any renewal of the cover, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in the rate.
- 2 Where the Employer is a Local Authority, the Employer may, in lieu of any adjustment of the amounts payable to the Contractor under clause 6-14-1, instruct the Contractor not to renew the Terrorism Cover under the Joint Names Policy and where he so instructs, the terms of clauses 6-15-4-1 and 6-15-4-2 shall apply from the renewal date if work executed and/or Site Materials suffer physical loss or damage caused by terrorism.

Terrorism Cover – non-availability – Employer's options

- 6-15 ·1 If the insurers named in a Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor in writing:
 - either
 - 1 that, notwithstanding the cessation of Terrorism Cover, the Employer requires that the work comprised in Orders continue to be carried out;
 - or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) the Contractor's employment under this Contract shall terminate.
- 3 If the Employer gives notice of termination under clause 6-15-2-2, a valuation of work completed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination shall be made and certified in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.
- 4 If the Employer does not give notice of termination under clause 6-15-2-2, then:
 - 1 if work executed and/or Site Materials under any Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-4 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice



Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party in writing not less than ~~13 weeks~~ 9 (nine) months notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7.2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7.1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration and/or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of insolvency

8-1 For the purposes of these Conditions, a Party is Insolvent if:

- 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- 2 without a declaration of solvency, he passes a resolution or makes a determination that he be wound up; or
- 3 he has a winding up order or bankruptcy order made against him; or
- 4 he has appointed to him an administrator or administrative receiver; or
- 5 he is the subject of any analogous arrangement, event or proceedings in any other jurisdiction; or
- 6 (additionally, in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in clauses 8-1-1 to 8-1-5.

Notices under section 8

- 8-2
- 1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
 - 2 Such termination shall take effect on receipt of the relevant notice.
 - 3 Each notice referred to in this section shall be in writing and delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3
- 1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
 - 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
 the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2, (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5
- 1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.

- 2 The Contractor shall immediately notify the Employer in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
- 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 the provisions of clause 8-9 shall apply as if such notice had been given and the other provisions of this Contract which require any further payment shall cease to apply;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7 ·1 If the Employer:
 - 1 does not pay by the final date for payment the amount properly due to the Contractor in respect of any certificate and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced, interferes with or obstructs the issue of any certificate; or
 - 3 fails to comply with CDM Regulations,
 the Contractor may give to the Employer a notice specifying the default a 'specified default') or defaults.
- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 ·1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 ·1 Where the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6, the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant

- Mechanical Zone 1 - RMC Mechanical Services Limited (as printed 16/08/201...3637750474 16/08/2011 supplied) as has not been valued and certified before such termination; and
- 2 the amount of any direct loss and/or damage caused to the Employer by the termination.
 - 2 If the amount of direct loss and/or damage exceeds the value certified under clause 8·9·1 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor.
 - 3 The final date for payment of the amount of the difference referred to in clause 8·9·2 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8·10 ·1 Where the Contractor's employment is terminated under clause 8·7 or 8·8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
- 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[20]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (item 16).

Arbitration -- Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice in writing to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2005 edition of CIMAR.^[20]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a written notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[20] See the Measured Term Contract Guide.

^[20] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



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JCT Contract

Between

Wolverhampton City Council (1)

And

Smith of Derby Ltd (2)

For the:

Service Repair and Maintenance of
Public Clocks.



This contract has been amended from the original template.

MTC 2011
Measured Term Contract 2011

2011

MEASURED TERM CONTRACT



- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.

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Articles of Agreement

This Agreement is made the 11th November 2012

Between **The Employer** Wolverhampton City Council
of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL.

And **The Contractor** Smith of Derby Ltd
(Company No. 01395408)⁽¹⁾
whose registered office is at 112 Alfreton Road, Derby, Derbyshire, DE21 4AU.

⁽¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires ~~Service , Repair and Maintenance of Public Clocks~~ maintenance and minor works to be carried out in:
- within the area of the City of Wolverhampton ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Jan Gladwin

of Head of Service, Property Design and Commissioning, City Services, Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3-10-1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Limited

of Red Hill House, 227 London Road, Worcester, WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9-2.

Article 7: Arbitration

Where Article 7 applies¹²⁴, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings¹²⁴

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

¹²⁴ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

1 Properties and description of the types of work (First Recital)



1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Public Clocks, within the area of the City of Wolverhampton.

2 Description of the types of work for which Orders may be issued¹⁴¹:

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

Collaborative working	* Paragraph 1 applies
Health and safety	* Paragraph 2 applies
Cost savings and value improvements	* Paragraph 3 applies
Sustainable development and environmental considerations	* Paragraph 4 applies
Performance indicators and monitoring	* Paragraph 5 applies
Notification and negotiation of disputes	* Paragraph 6 applies
Where paragraph 6 applies, the respective nominees of the Parties are	Employer's nominee  Contractor's nominee 

¹⁴¹ Where the National Schedule of Rates is to apply (see items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

or such replacement as each Party may notify to the other from time to time

3 Contract Period¹⁹
(Article 1 and clause 7-1)

Subject to clause 7-1, the Contract Period will be six (6) years

commencing on 1st April 2012

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9-3 to 9-8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9-3 to 9-8 apply.)²⁰

* Article 7 and clauses 9-3 to 9-8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2-4)

Minimum value of any one Order to be issued

£N/A (words N/A)

Maximum value of any one Order to be issued

£N/A (words N/A)

6 Orders – value of work to be carried out
(Clause 2-5)

Approximate anticipated value of work to be carried out under this Contract

* £5,000 (words Five Thousand Pounds) per annum

7 Orders – priority coding²¹
(Clause 2-6)

As stated in the tender documents

8 Construction Industry Scheme (CIS)
(Clause 4-2)

The Employer at the commencement of the Contract Period

* is a 'contractor'

for the purposes of the CIS

¹⁹ The period is envisaged as normally being at least one year.

²⁰ On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].

²¹ To be completed if the Employer requires; as an example the code might be:

- 'A': response time to be 4 hours;
- 'B': to be commenced within 2 days;
- 'C': to be commenced within 14 days;
- 'D': to be commenced as agreed.

9 **Progress payments**
(Clause 4.3.1)

Estimated value of an Order above which progress payments can be applied for (if none is stated, it is £2,500.)

£N/A

10 **Responsibility for measurement and valuation**
(Clause 5.2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * ~~The Contract Administrator shall measure and value all Orders/~~
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of £ _____ or more; the Contractor shall measure and value all other Orders/~~
- * The Contractor shall measure and value all Orders

11 **Schedule of Rates**
(Clauses 5.3, 5.6.1 and 5.6.2)

1 **The Schedule of Rates is**

- * ~~the National Schedule of Rates is the Schedule of Rates as priced in the tendered Schedule (Part E)/~~

(identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by_

- * the addition/
- * the deduction

of the Adjustment Percentage, which is per cent

2 ~~Where the Schedule of Rates is the National Schedule of Rates the version(s) identified opposite are to apply²¹~~

- * ~~National Schedule of Rates (Building Works)/~~
- * ~~National Schedule of Rates (Access Audit)/~~
- * ~~National Schedule of Rates (Electrical Services in Buildings)/~~
- * ~~National Schedule of Rates (Mechanical Services in Buildings)/~~
- * ~~National Schedule of Rates (Painting and Decorating)/~~
- * ~~National Schedule of Rates (Roadworks)/~~
- * ~~National Housing Maintenance Schedule~~

3 **Rates – Fluctuations**

Clause 5.6.1
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * ~~applies/~~
- * ~~does not apply. The tendered Prices will apply for the period up to 31st March 2013. With effect from 1st April 2013, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institute of Chartered Surveyors for the third quarter immediately prior to the revision date and the~~

third quarter previously published.

4 Basis and dates of revision

(Not applicable where the National Schedule of Rates applies)

Where clause 5-6-1 applies, the basis on which the Schedule of Rates is to be revised under clause 5-6-1-2 (if no basis is identified the rates remain fixed for all Orders.)

* is as follows/
* is set out in the following document

Where clause 5-6-1 applies, the dates as at which the Schedule of Rates is to be revised are (if no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)

12 Daywork
(Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Overheads and profit on Materials As stated in the tender documents -per cent

Overheads and profit on Plant, Services and Consumable Stores As stated in the tender documents -per cent

Overheads and profit on Sub-Contractors As stated in the tender documents -per cent

2 Revision of Schedule of Hourly Charges

Clause 5-6-3 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

* applies/ A stated in the Tender documents
* does not apply

(Where clause 5-6-3 applies) the annual revision date (if other than 1 August) is _____

(Where clause 5-6-3 applies) the basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges

* is as follows/
* is set out in the following document

^M If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

13	Overtime work (Clause 5-7)	The percentage addition in respect of overheads and profit on non-productive overtime rates is <i>(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)</i>	<u>N/A inclusive rates as stated in the tender documents(out of hours call outs)</u> _____ per cent
14	Insurance (Clauses 6-4-1-2, 6-9, 6-11 and 6-14)	<p>·1 Insurance cover for any one occurrence or series of occurrences arising out of one event</p> <p>·2 Percentage to cover professional fees</p> <p>·3 Annual renewal date of insurance as supplied by the Contractor</p> <p>·4 Terrorism Cover – details of the required cover <i>(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)</i></p>	<p><u>£5,000,000</u></p> <p><u>15 per cent</u></p> <p><u>to be supplied by the Contractor</u></p> <p><u>Pool Re Cover</u></p>
15	Break Provisions – Employer or Contractor (Clause 7-1)	The period of notice, if less than 13 weeks, is	<u>9 months weeks</u>
16	Settlement of Disputes (Clauses 9-2, 9-3 and 9-4-1)	Adjudication⁽¹⁰⁾ Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established) ⁽¹¹⁾ <i>(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)</i>	The Adjudicator is <u>None stated</u> <ul style="list-style-type: none"> * Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * constructionadjudicators.com⁽¹²⁾ * Association of Independent Construction Adjudicators⁽¹³⁾ * Chartered Institute of Arbitrators

⁽¹⁰⁾ The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

⁽¹²⁾ constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

⁽¹¹⁾ Delete all but one of the nominating bodies asterisked.

⁽¹³⁾ Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

Arbitration¹⁴⁴

Appointor of Arbitrator (and of any replacement)¹⁴⁴
(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
 - * The Royal Institution of Chartered Surveyors
 - * ~~Chartered Institute of Arbitrators~~

¹⁴⁴ This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

¹⁴⁵ Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

Executed as a Deed by the Employer

namely Wolverhampton City Council

- (B) ~~by affixing hereto the common seal of the company/other body corporate~~
In Witness whereof the parties hereto have executed the Agreement the day and the year first above when written.

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council.

In the presence of

 Signature _____ Director *Authorised Officer*

 Signature _____ Company Secretary/Director

755/2012



[Comm.]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Executed as a Deed by the Contractor

namely 'Smith of Derby Ltd

(C) by attested signature of a single Director of the company **2** ¹



 Signature Director

in the presence of



Witness' signature

 _____ (Print name) 

Witness' address



Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	<u>the Agreement, these Conditions, the completed Contractor Particulars and the Schedule of Rates, and all Sections of this Document.</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (item 3).
Contractor:	the person named as Contractor in the Agreement.

Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹⁹⁹
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixated materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹⁹⁹ Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1.7 This Contract shall be governed by and construed in accordance with the law of England.^[7]

^[7] Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.



Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a

handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date⁽¹⁴⁾ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator that does not arise from the Contractor's default),

⁽¹⁴⁾ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within ~~6~~ 12 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁰⁾ that comprises or includes work under an Order is notifiable:

- 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
- 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽¹¹⁾;
- 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
- 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 ·1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

⁽¹⁰⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

⁽¹¹⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (Item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3 -1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
- 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (Item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more
- the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
- 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
- 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-6-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 If the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- the basis on which that sum has been calculated;
- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3 If the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
 - 4 If the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
 - 5 If clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 -1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as being authorised to do so.

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4·7
- 1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4·6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4·7·1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
- 2 any other addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (Item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²¹¹.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²¹¹ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6
- 1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-6 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's Insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[24], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 14-1) for any one occurrence or series of occurrences arising out of one event.^[24]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[24] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[24] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance^[24]: insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[24];

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);

(b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

^[24] The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[25] In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the Insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.^[26]
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-15-1, to an existing structure and/or its contents) caused by or resulting from terrorism.^[26]

Insurance of existing structures^[27]

- 6-7** -1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[28], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

- 6-8** -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

^[26] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.

^[27] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

- 6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6²⁰¹ for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (Item 14-2) to cover professional fees)²⁰¹ up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:
 - 1 the end of the Contract Period or (if later) the last Order Completion Date; or
 - 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:
 - 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
 - 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (Item 14-3).

Notification of occupation and use

- 6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13 -1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
- 2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

²⁰¹ In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

disregarded in computing any amounts payable to the Contractor under this Contract.

- 3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
- 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 -1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 -1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.

- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6-15-2-2 and there is no requirement for cover under clause 6-15-3:
- 1 if work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-5-2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than ~~43 weeks~~ 9 Months notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an individual becomes insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1.1 to 8-1.4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 ·1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 ·1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,

the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5
- 1 If the Contractor is insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
 - 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3 As from the date the Contractor becomes insolvent, whether or not the Employer has given such notice of termination:
 - 1 clause 8-9 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6
- The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7
- 1 If the Employer:
 - 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,

the Contractor may give to the Employer a notice specifying the default a 'specified

default') or defaults.

- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 if the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[90]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.^[91]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 Identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (Item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[90] See the Measured Term Contract Guide.

^[91] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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PART D - SCHEDULE OF RATES

CLOCK SCHEDULE

Undertake the routine maintenance of the public clocks as described in the specification including provision of all necessary transport, testing equipment, access equipment, attendance on building occupants, insurances and other costs at the following locations.

	<u>No.</u>	<u>Rate</u>	<u>£</u>	<u>p</u>
<u>Bilston Town Hall Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>Holy Trinity Church</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>Law Courts Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>Market Square Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>Molineux House Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>Phoenix Park Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
	D/1		To Collection	£ [REDACTED]

	<u>No.</u>	<u>Rate</u>	<u>£</u>	<u>p</u>
<u>St John's in the Square Church Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>St Luke's Church Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>St Michael's & All Angels Church Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>St Peter's Collegiate Church Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>St Philip's Church Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>St Thomas's Church Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		

	<u>No.</u>	<u>Rate</u>	<u>£</u>	<u>p</u>
<u>Tettenhall Village Tower Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>Victoria Street Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		
<u>West Park Pillar Clock</u>				
Six Monthly Visit	2	[REDACTED]	[REDACTED]	[REDACTED]
Seasonal Visit	2	[REDACTED]		

COLLECTION

Page No. D/1

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PART D
CARRIED TO FINAL SUMMARY £

£	p
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

PART E - SCHEDULE OF CHARGES

Item

No.

Rate

£

p

3. Dismantling parts to return to workshop including 1 hour workshop maintenance work, all necessary transport, access equipment, attendance on building occupants, invoices and all other costs.

8

4. Each additional hour in workshop.

6

EMERGENCY ATTENDANCE
CARRIED TO COLLECTION £

SCHEDULE B

SCHEDULE OF CHARGES

- | <u>Item</u> | £ | p |
|---|------------|------------|
| a The Schedule of Charges shall be calculated in accordance with the Definition of Prime Cost of Dayworks carried out under a building contract (June 2007 - third edition) published by the Royal Institution of Chartered Surveyors and the Construction Federation. | | |
| b The Contractor is to provide all inclusive labour rates per hour (Option B) for the following categories and extend that rate by the number of hours shown. The all inclusive rates are deemed to be fixed until 31 March 2013. Thereafter, the rates will be adjusted in accordance with Clause 5 of Part A (Preliminaries). | ██████████ | ██████████ |
| c The Contractor is to indicate below and apply to the values given the percentage addition required to be added to the various sections of the Definition for Incidental Costs, Overheads and Profit as defined in Section 6 and these percentages will be added to any calculations made in respect to those sections throughout the Contract Period. | | |
| d The Contractor is to provide a labour rate per hour for the following categories and extend that rate by the number of hours shown. | | |

EMERGENCY ATTENDANCE SCHEDULE

(ALL PROVISIONAL)

<u>Item</u>	<u>No.</u>	<u>Rate</u>	£	p
1. Respond to call-out during normal hours including 1 hour maintenance work and all necessary attendance on building occupants, invoices and all other costs.	15	██████████	██████████	██████████
2. Each additional hour taken to above.	6	██████████	██████████	██████████

SCHEDULE C

Repair of defective components discovered in course of inspection.

<u>Item</u>	<u>No.</u>	<u>Rate</u>	<u>£</u>	<u>p</u>
1. Minor repairs up to one hour (Provisional)	30			
REPAIRS				
CARRIED TO COLLECTION	£			

COLLECTION

Page No. E/1

Page No. E/2

PART E
CARRIED TO FINAL SUMMARY £

SERVICE COST

Attend site to carry out an inspection and test of a Ventilation fan within a civic building as specified, including certification

Having arrived on site as item 1 above, carry out an inspection and service of a roof model fan (A), as detailed in the specification

Having arrived on site as item 1 above, carry out an inspection and service of a duct mounted fan (B), as detailed in the specification

Having arrived on site as item 1 above, carry out an inspection and service of a propeller fan (C), as detailed in the specification

Having arrived on site as item 1 above, carry out an inspection and service of a twin fan unit (D), as detailed in the specification

Having arrived on site as item 1 above, carry out an inspection and service of a Vent-axia / Expelair type fan (E), as detailed in the specification

Provision of ladder access to high level fan, roof or roof void

Provision of propriety movable tower access to high level fan, roof or roof void

Provision of bespoke access platform on an 8m pitched roof.

Provisional Quantities	Unit	Unit price	£	p
400	Nr			
525	Nr			
75	Nr			
30	Nr			
75	Nr			
550	Nr			
600	Nr			
300	Nr			
25	Nr			

JCT Measured Term Contract

Between

Wolverhampton City Council (1)

And

Gough Group Holdings Ltd (2)

For :

Maintenance and Minor Works

This contract has been amended from the original template.

MTC

2006

Measured Term Contract

Revision 2 2009

Measured Term Contract

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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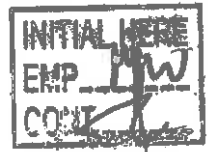
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Articles of Agreement

This Agreement is made the 10 01 2012

Between **The Employer** Wolverhampton City Council
of St Peter's Square Wolverhampton WV1 1RG



And **The Contractor** Gough Group Holdings Limited
(Company No. 00484559)¹⁾
whose registered office is at Tudor House Moseley Road Bilston Wolverhampton WV14 6JD

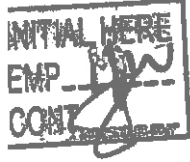


¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.



Recitals

Whereas



- First** the Employer requires Building maintenance and minor works to be carried out in:
City of Wolverhampton ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(1) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now It is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to Items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin, Head of Service, Property Design & Commissioning

of City Services Wolverhampton City Council St Peter's Square Wolverhampton WV1 1RG

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.



Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Limited

of Red Hill House 227 London Road Worcester WR5 2JG

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(1) of those regulations.



Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(2) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies²³, then, subject to Article 6 and the exceptions set out below, any dispute

²³ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings¹⁹¹

Subject to Article 8 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

?

¹⁹¹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

**1 Properties and description of the types of work
(First Recital)**

- 1 List of properties in the Contract Area in respect of which Orders may be issued:


Wolverhampton City Council's portfolio of non-housing properties and also houses for caretakers and other residential staff

- 2 Description of the types of work for which Orders may be issued⁽⁴⁾:

Building repair, maintenance and minor works.

**2 Supplemental Provisions
(Sixth Recital and Schedule)**

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

Collaborative working	*	Paragraph 1 applies
Health and safety	*	Paragraph 2 applies
Cost savings and value improvements	*	Paragraph 3 applies
Sustainable development and environmental considerations	*	Paragraph 4 applies
Performance Indicators and monitoring	*	Paragraph 5 applies
Notification and negotiation of disputes	*	Paragraph 6 applies
Where paragraph 6 applies, the respective nominees of the Parties are		Employer's nominee  Contractor's nominee



⁽⁴⁾ Where the National Schedule of Rates is to apply (see Items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in Item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

or such replacement as each Party may notify to the other from time to time

INITIAL HERE
EMP [Signature]
CONT [Signature]

Contract Period^[1]
(Article 1 and clause 7-1)

Subject to clause 7-1, the Contract Period will be four (4) years

commencing on 1 April 2012 / 1 February 2012

INITIAL HERE
EMP [Signature]
CONT [Signature]

INITIAL HERE
EMP [Signature]
CONT [Signature]

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9-3 to 9-8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9-3 to 9-8 apply.)^[2]

* Article 7 and clauses 9-3 to 9-8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2-4)

Minimum value of any one Order to be issued
£40.00 (words Forty pounds)

Maximum value of any one Order to be issued
£50,000.00 (words Fifty thousand pounds)

INITIAL HERE
EMP [Signature]
CONT [Signature]

INITIAL HERE
EMP [Signature]
CONT [Signature]

6 Orders – value of work to be carried out
(Clause 2-5)

Approximate anticipated value of work to be carried out under this Contract

- * £2,500,000 (words Two million five hundred thousand pounds) per annum
- * £10,000,000 (words Ten million pounds) over the four year contract period

INITIAL HERE
EMP [Signature]
CONT [Signature]

7 Orders – priority coding^[3]
(Clause 2-6) As stated in the Tender Documents

INITIAL HERE
EMP [Signature]
CONT [Signature]

8 Construction Industry Scheme (CIS)
(Clause 4-2)

The Employer at the commencement of the Contract Period

* Is a 'contractor'

[1] The period is envisaged as normally being at least one year.
 [2] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
 [3] To be completed if the Employer requires; as an example the code might be:

- 'A': response time to be 4 hours;
- 'B': to be commenced within 2 days;
- 'C': to be commenced within 14 days;
- 'D': to be commenced as agreed.

9 Progress payments (Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for (if none is stated, it is £2,500.)

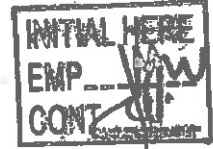
£5,000.00



10 Responsibility for measurement and valuation (Clause 5-2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * The Contract Administrator shall measure and value all Orders/
* The Contract Administrator shall measure and value each Order with an estimated value of £... or more; the Contractor shall measure and value all other Orders/
* The Contractor shall measure and value all Orders



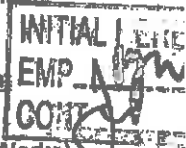
11 Schedule of Rates (Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

- * the National Schedule of Rates

subject to adjustment of the rates listed in that Schedule by

of the Adjustment Percentage, which is As stated in the Tender Documents per cent



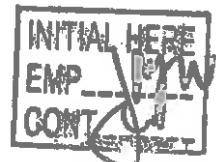
2 Where the Schedule of Rates is the National Schedule of Rates the version(s) identified opposite are to apply

- * National Schedule of Rates (Building Works)

3 Rates - Fluctuations

Clause 5-6-1 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * applies/
* does not apply



4 Basis and dates of revision Not applicable.

12 Daywork (Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation - percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the Invoice price of non-labour items are as follows:

Delete all versions that do not apply. See also footnote [4].

MTC (R2)

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EMP. *[Signature]*
CONT. *[Signature]*

Overheads and profit on Materials As stated in the Tender Documents per cent

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EMP. *[Signature]*
CONT. *[Signature]*

Overheads and profit on Plant, Services and Consumable Stores As stated in the Tender Documents per cent

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EMP. *[Signature]*
CONT. *[Signature]*

Overheads and profit on Sub-Contractors As stated in the Tender Documents per cent

12 Revision of Schedule of Hourly Charges

Clause 5-6-3 * applies
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

The annual revision date is As stated in the Tender Documents

The basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges¹² is set out in the following document The Tender Documents

INITIAL HERE
EMP. *[Signature]*
CONT. *[Signature]*

13 Overtime work (Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is Not applicable: inclusive rate as stated in the Tender Documents. per cent
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

INITIAL HERE
EMP. *[Signature]*
CONT. *[Signature]*

14 Insurance (Clauses 6-4-1-2, 6-9 and 6-11)

INITIAL HERE
EMP. *[Signature]*
CONT. *[Signature]*

1 Insurance cover for any one occurrence or series of occurrences arising out of one event £5,000,000

INITIAL HERE
EMP. *[Signature]*
CONT. *[Signature]*

2 Percentage to cover professional fees 15 per cent

3 Annual renewal date of insurance as supplied by the Contractor 31 March

15 Break Provisions – Employer or Contractor (Clause 7-1)

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EMP. *[Signature]*
CONT. *[Signature]*

The period of notice, if less than 13 weeks, is 9 months ~~weeks~~

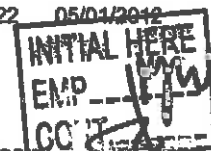
16 Settlement of Disputes (Clauses 9-2, 9-3 and 9-4-1)

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EMP. *[Signature]*
CONT. *[Signature]*

¹² If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

Adjudication¹¹⁰

The Adjudicator is Not named



Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)¹¹¹

- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Construction Confederation~~
- * ~~National Specialist Contractors Council~~
- * ~~Chartered Institute of Arbitrators~~

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

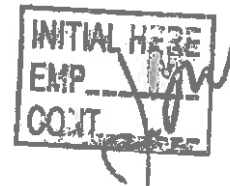


Arbitration¹¹²

Appointor of Arbitrator (and of any replacement)¹¹³

- * ~~President or a Vice-President:~~
- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Chartered Institute of Arbitrators~~

(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)



¹¹⁰ The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

¹¹¹ Delete all but one of the nominating bodies asterisked.

¹¹² This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-6 (Arbitration) apply.

¹¹³ Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company* Secretary or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company* Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company* Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 1 Wolverhampton City Council

(B) by affixing hereto the common seal of ~~the company/other body corporate~~ 1 Wolverhampton City Council

in the presence of



Signature ~~Director~~ Authorized Officer

Signature Company Secretary/Director



{Common Seal}


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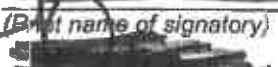
Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Executed as a Deed by the Contractor

namely 'Gough Group Holdings Limited

(A) acting by a Director and the Company Secretary/two Directors of the company ^{2,3}



(Print name of signatory)


Signature Director

and



(Print name of signatory)


Signature Company Secretary/Director

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions <u>and the completed Contract Particulars, and the Schedule of Rates, and all Sections of this Document</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.



Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on written instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹⁴⁰
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹⁴⁰ Amend as necessary if different Public Holidays are applicable.

Specified Perils: see clause 6-6.

Statutory Requirements: any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.

Statutory Undertaker: any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.

Terrorism Cover: see clause 6-6.

Variation: see clause 5-1.

VAT: Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:

- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
- 2 the singular includes the plural and vice versa;
- 3 a gender includes any other gender;
- 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
- 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6 Unless otherwise provided in these Conditions, any notice or other communication under this Contract may be given or served by any effective means to the recipient at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1-7 This Contract shall be governed by and construed in accordance with the law of England.¹⁴⁰

¹⁴⁰ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's Instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator in writing; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall inform the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled

to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date^[10] and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a written notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator under this Contract that is not due to a default of

^[10] Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

the Contractor), the Contract Administrator shall in writing fix such later date for completion as may be fair and reasonable. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator in writing the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent in writing, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor in writing and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 126 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the written consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior written consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with Instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time in writing require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required in writing under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it in writing.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may, in writing, cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for

payment by the Employer under that clause, any work or supply which in his opinion has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue written instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with Instructions

- 3-8 If within 7 days after receipt of a written notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁷⁾ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽¹⁸⁾;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 ·1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal

⁽¹⁷⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

⁽¹⁸⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

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Building works - Gough Group Holdings Limited (as printed 05/01/2012 15:28:...4201317722 05/01/2012

Contractor, the Employer shall immediately upon such further appointment notify the Contractor in writing of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3 -1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
- 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (Item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more
- the Contractor may at intervals of not less than one month from the commencement date make a written application to the Contract Administrator for a progress payment in respect of that Order for the work carried out or supplies made by the Contractor pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, after taking into account any amounts previously certified in respect of the Order.
- 2 Within 14 days of receipt of an application under clause 4-3-1 the Contract Administrator shall issue a certificate for payment by the Employer under clause 4-6, which states his estimate of the value of the work and/or supplies referred to in the Contractor's application, after taking into account any amounts previously certified. The certificate shall state the basis on which that estimate has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;
 - 2 if the Contract Administrator does not certify in accordance with clause 4-4-1, the Contractor may give notice to the Contract Administrator that if the certificate in respect of the completed Order is not received within 14 days of the date of that notice the Contractor may arrange for measurement and valuation of the Order and the submission of an account for it; within 7 days of receipt of such account the Contract Administrator shall certify the value of the completed Order, giving the particulars required by clause 4-4-1;
 - 3 if any such account from the Contractor is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should have been included in it, then, whether or not it has been certified, it shall be amended and the provisions of clause 4-5-3-1 shall apply to payment of it by the Employer.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contractor shall submit his account for the completed Order;
 - 2 within 28 days of receipt of that account the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was

- calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;
- 3 if an account submitted by the Contractor pursuant to clause 4-5-1 is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should properly have been included in it, that account, whether or not it has been certified, shall be amended and the Employer:
 - 1 shall only be required to pay the corrected account or, if the uncorrected account has been paid, shall be entitled, subject to giving notice in accordance with clause 4-6-3, to recover the excess by withholding and/or deduction from any amount due or to become due to the Contractor under this Contract or may recover that excess from the Contractor as a debt; and
 - 2 may, subject to clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in finding the error;
 - 4 if the Contractor fails to submit an account in accordance with clause 4-5-1 and if at the end of 28 days notice subsequently given to the Contractor by the Contract Administrator the Contractor has still failed to submit the account, the Contract Administrator may arrange for the measurement and valuation of the relevant work and/or supply and prepare the account for certification under clause 4-5-2. The Employer may, subject to giving notice in accordance with clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in respect of the measurement, valuation and preparation of the account.

Payment of certificates

- 4-6 ·1 The final date for payment pursuant to any certificate issued by the Contract Administrator shall be 14 days from the date of issue of that certificate.
- 2 Not later than 5 days after the date of issue of a certificate the Employer shall give a written notice to the Contractor which shall, in respect of the amount stated as due in that certificate, specify the amount of the payment proposed to be made, to what the amount relates and the basis on which the amount has been calculated.
- 3 Not later than 5 days before the final date for payment the Employer may give a written notice to the Contractor which shall specify any amount proposed to be withheld or deducted from the amount due, the ground or grounds for such withholding or deduction and the amount of withholding or deduction attributable to each ground.
- 4 Subject to any notice given under clause 4-6-3, the Employer shall no later than the final date for payment pay the Contractor the amount specified in the notice given under clause 4-6-2 or, in the absence of a notice under clause 4-6-2, the amount stated as due in the certificate.
- 5 If the Employer fails properly to pay the amount, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to the amount not properly paid, pay the Contractor simple interest at the Interest Rate for the period until payment is made. Interest under this clause 4-6-5 shall be a debt due to the Contractor by the Employer. Acceptance of a payment of interest under this clause 4-6-5 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.

Contractor's right of suspension

- 4-7 Without affecting the Contractor's other rights and remedies, if the Employer, subject to any notice issued pursuant to clause 4-6-3, fails to pay the Contractor in full (including any VAT properly chargeable in respect of such payment) by the final date for payment as required by these Conditions and the failure continues for 7 days after the Contractor has given written notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend such performance until payment is made in full.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order; or
- 2 the addition to, omission from or alteration of any Order; or
- 3 the removal of any Inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him in writing) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (Item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars⁽¹⁰⁾.
 - 2 The Contractor shall give to the Contract Administrator reasonable notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and the Contractor shall deliver to the Contract Administrator for verification not later than 7 Business Days after the work has been executed return(s) in the form required by the Contract Administrator specifying the time daily spent upon the work, the workmen's names, and the plant, materials and other items employed. If approved by the Contract Administrator, the return(s) shall be copied to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

⁽¹⁰⁾ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6
- 1 Unless it is stated in the Contract Particulars (item 11·3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11·4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (item 12·2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year or such other annual revision date as is stated in that Item in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed in writing by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal Injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's Insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[20], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (Item 14-1) for any one occurrence or series of occurrences arising out of one event.^[21]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[20] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[21] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site, or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance^[22]:	<p>insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:</p> <p>(a) property which is defective due to:</p> <ul style="list-style-type: none"> (i) wear and tear, (ii) obsolescence, or (iii) deterioration, rust or mildew; <p>(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[22];</p> <p>(b) loss or damage caused by or arising from:</p> <ul style="list-style-type: none"> (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government <i>de jure</i> or <i>de facto</i> or public, municipal or local authority, (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or (iii) an Excepted Risk.
Excepted Risks:	<p>ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.</p>
Joint Names Policy:	<p>a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an</p>

^[22] Clause 6-6 defines by exclusions the risks that All Risks Insurance is required to cover: the required cover includes loss or damage caused by or arising from terrorism. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance. In particular the Parties should note the potential difficulty with respect to Terrorism Cover. Obtaining Terrorism Cover, which is necessary in order to comply with the insurance requirements, will involve an additional premium and may in certain situations be difficult to effect. The exclusion of any element from the All Risks Insurance and its 'buy back' requires discussion between the Parties and their insurance advisers; these are matters that need to be arranged between the Parties and those advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[23] In any policy for All Risks Insurance taken out under clause 6-9, cover should not be reduced by the terms of any exclusion written in the policy beyond the terms of paragraph (b) in this definition of All Risks Insurance; thus an exclusion in terms 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of that clause or of that definition. Wider All Risks cover than that specified may be available to Contractors, though it is not standard.

insured, or recognised as an insured thereunder.

Specified Perils: fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.

Terrorism Cover: insurance provided by a Joint Names Policy under clauses 6-7 and 6-9 for physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials or to an existing structure and/or its contents caused by terrorism.^[24]

Insurance of existing structures^[25]

- 6-7 -1 The Employer shall take out and maintain a policy of insurance (unless he has already done so) in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[26], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but that work or supply in respect of such properties pursuant to this Contract may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

- 6-8 -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by him in respect of the premiums pursuant to clause 6-8-1 shall be payable by the Employer to the Contractor and shall be recoverable from the Employer as a debt.
- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the Insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

^[24] As respects this definition, the extent of Terrorism Cover and possible difficulties in complying with the insurance requirements, see footnote [22] and the Measured Term Contract Guide.

^[25] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[26] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6^[27] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14.2) to cover professional fees)^[28] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
- 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14.3).

Notification of occupation and use

6-12 The Contractor shall before commencing to carry out the first Order under this Contract inform the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

6-13

- 1 If loss or damage affecting any executed work or supplies made pursuant to an Order or Site Materials is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice in writing both to the Contract Administrator and to the Employer of its extent, nature and location.
- 2 Subject to clauses 6-13.4 and 6-15.4.2, the occurrence of such loss or damage shall be disregarded in computing any amounts payable to the Contractor under this Contract.
- 3 After any inspection required by the Insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged supplies made or Site Materials, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
- 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Except where the Employer cancels the Order affected by such loss or damage the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13.5) under certificates of the Contract Administrator.

^[27] In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [22].

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – premium rate changes

- 6-14 -1 If the rate on which the premium is based for Terrorism Cover required under the Joint Names Policy referred to in clause 6-9 or 6-11 is varied at any renewal of the cover, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in the rate.
- 2 Where the Employer is a Local Authority, the Employer may, in lieu of any adjustment of the amounts payable to the Contractor under clause 6-14-1, instruct the Contractor not to renew the Terrorism Cover under the Joint Names Policy and where he so instructs, the terms of clauses 6-15-4-1 and 6-15-4-2 shall apply from the renewal date if work executed and/or Site Materials suffer physical loss or damage caused by terrorism.

Terrorism Cover – non-availability – Employer's options

- 6-15 -1 If the insurers named in a Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor in writing:
 - either
 - 1 that, notwithstanding the cessation of Terrorism Cover, the Employer requires that the work comprised in Orders continue to be carried out;
 - or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) the Contractor's employment under this Contract shall terminate.
- 3 If the Employer gives notice of termination under clause 6-15-2-2, a valuation of work completed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination shall be made and certified in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.
- 4 If the Employer does not give notice of termination under clause 6-15-2-2, then:
 - 1 if work executed and/or Site Materials under any Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-4 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party in writing not less than ~~43 weeks~~ 9 months' notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7.1, the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration and/or that he otherwise accepts.



Section 8 Termination for Default, etc.

Meaning of insolvency

8-1 For the purposes of these Conditions, a Party is Insolvent if:

- 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- 2 without a declaration of solvency, he passes a resolution or makes a determination that he be wound up; or
- 3 he has a winding up order or bankruptcy order made against him; or
- 4 he has appointed to him an administrator or administrative receiver; or
- 5 he is the subject of any analogous arrangement, event or proceedings in any other jurisdiction; or
- 6 (additionally, in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in clauses 8-1-1 to 8-1-5.

Notices under section 8

- 8-2**
- 1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
 - 2 Such termination shall take effect on receipt of the relevant notice.
 - 3 Each notice referred to in this section shall be in writing and delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3**
- 1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
 - 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4**
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
 the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2, (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5**
- 1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[20]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice in writing to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2005 edition of CIMAR.^[21]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a written notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (Item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[20] See the Measured Term Contract Guide.

^[21] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

MTC (R2)

Building works - Gough Group Holdings Limited (as printed 05/01/2012 15:28:...4201317722 05/01/2012

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8** The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

- 2 The Contractor shall immediately notify the Employer in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
- 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 the provisions of clause 8-9 shall apply as if such notice had been given and the other provisions of this Contract which require any further payment shall cease to apply;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7 -1 If the Employer:
 - 1 does not pay by the final date for payment the amount properly due to the Contractor in respect of any certificate and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced, interferes with or obstructs the issue of any certificate; or
 - 3 fails to comply with CDM Regulations,

the Contractor may give to the Employer a notice specifying the default a 'specified default') or defaults.

 - 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
 - 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 -1 Where the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6, the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant

Building works - Gough Group Holdings Limited (as printed 05/01/2012 15:28:....4201317722 05/01/2012 supplied) as has not been valued and certified before such termination; and

- 2 the amount of any direct loss and/or damage caused to the Employer by the termination.
- 2 If the amount of direct loss and/or damage exceeds the value certified under clause 8-9-1 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor.
- 3 The final date for payment of the amount of the difference referred to in clause 8-9-2 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
 - 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
 - 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



Members

British Property Federation Limited
Construction Confederation
Local Government Association
National Specialist Contractors Council Limited
Royal Institute of British Architects
The Royal Institution of Chartered Surveyors
Scottish Building Contract Committee Limited

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JCT Contract

Between

Wolverhampton City Council (1)

And

Midwest Electrical Contractors Ltd
(2)

Measured Term Contract

For

Minor Works .



This contract has been amended from the original template.

MTC

2006

Measured Term Contract

Revision 2 2009

Measured Term Contract

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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For details of Revision 2 changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the _____ 20_____

Between **The Employer** Wolverhampton City Council
of St Peter's Square Wolverhampton WV1 1RL

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And **The Contractor** Midwest Electrical Contractors Limited
(Company No. 2251570)¹¹
whose registered office is at 370 Newhampton Road West Wolverhampton WV6 0RX

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CONTR

¹¹ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

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OCNT

Whereas

Electrical Repair

inspection and testing of fan - Assisted
Heaters and Ventilation fans

First the Employer requires maintenance and minor works to be carried out in:

Zone 1 Wolverhampton (As defined in the Tender Documents pages A/2, A/3 and Appendix 4) for works in the £5,000 - £250,000 range and Zones 1 - 3 inclusive for all works in the £0 - £5,000 range (Option B, Tender Documents) ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;

Second the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;

Third the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;

Fourth the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(1) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;

Fifth the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;

Sixth the Supplemental Provisions identified in the Contract Particulars apply;

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EMP MW
OCNT

Articles

Now It is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to Items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin, Head of Service, Property Design & Commissioning

of Wolverhampton City Council St Peter's Square Wolverhampton WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Limited

of Red Hill House 227 London Road Worcester WR5 2JG

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(1) of those regulations.

Article 5: Principal Contractor

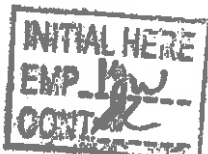
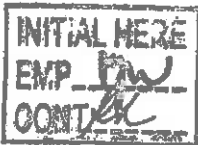
The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(2) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies¹⁹, then, subject to Article 6 and the exceptions set out below, any dispute



¹⁹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings²¹

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

²¹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

1 Properties and description of the types of work (First Recital)

-1 List of properties in the Contract Area in respect of which Orders may be issued:

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CONT EW

Wolverhampton City Council buildings (excluding housing) within the area of the City of
Wolverhampton

-2 Description of the types of work for which Orders may be issued⁽¹⁾:

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EMP EW
CONT EW

Electrical repair, maintenance and minor works, inspection and testing of fan assisted
heaters and ventilation fans

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
*(Where neither entry against an item below is
deleted, the relevant paragraph applies.)*

Collaborative working

Paragraph 1
* applies/~~does not apply~~

INITIAL HERE
EMP EW
CONT EW

Health and safety

Paragraph 2
* applies/~~does not apply~~

INITIAL HERE
EMP EW
CONT EW

Cost savings and value improvements

Paragraph 3
* applies/~~does not apply~~

INITIAL HERE
EMP EW
CONT EW

Sustainable development and environmental
considerations

Paragraph 4
* applies/~~does not apply~~

INITIAL HERE
EMP EW
CONT EW

Performance Indicators and monitoring

Paragraph 5
* applies/~~does not apply~~

INITIAL HERE
EMP EW
CONT EW

Notification and negotiation of disputes

Paragraph 6
* applies/~~does not apply~~

INITIAL HERE
EMP EW
CONT EW

Where paragraph 6 applies, the respective
nominees of the Parties are

Employer's nominee
[Redacted]

INITIAL HERE
EMP EW
CONT EW

⁽¹⁾ Where the National Schedule of Rates is to apply (see items 11-1 and 11-2 of the Contract Particulars) and the nature of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11-2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

AK
Contractor's nominee
[Redacted]

or such replacement as each Party may notify to the other from time to time

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EMP. *fw*
COYT. *AK*

3 Contract Period⁽¹⁾
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be Four years
commencing on 1 July 2011

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COYT. *AK*

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9.3 to 9.8 apply.)⁽²⁾

* Article 7 and clauses 9.3 to 9.8 (Arbitration) apply

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COYT. *AK*

5 Orders – minimum and maximum value
(Clause 2.4)

Minimum value of any one Order to be issued
£25 (words Twenty-five pounds)

Maximum value of any one Order to be issued
£250,000 (words Two hundred and fifty thousand pounds)

[Redacted stamp]

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EMP. *fw*
COYT. *AK*

6 Orders – value of work to be carried out
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

* £600,000 ((Alternative 'A') 1,000,000 (Alternative 'B') (words Six hundred thousand pounds (Alternative 'A') One million pounds (Alternative 'B')) per annum

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COYT. *AK*

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EMP. *fw*
COYT. *AK*

7 Orders – priority coding⁽³⁾
(Clause 2.6)

As stated in the Tender Documents

8 Construction Industry Scheme (CIS)
(Clause 4.2)

⁽¹⁾ The period is envisaged as normally being at least one year.
⁽²⁾ On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
⁽³⁾ To be completed if the Employer requires; as an example the code might be:
• 'A': response time to be 4 hours;
• 'B': to be commenced within 2 days;
• 'C': to be commenced within 14 days;
• 'D': to be commenced as agreed.

The Employer at the commencement of the Contract Period

* is a 'contractor'
for the purposes of the CIS

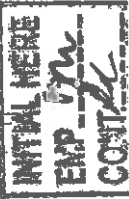
9 Progress payments
(Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for (If none is stated, it is £2,500.) **£5,000**

10 Responsibility for measurement and valuation
(Clause 5-2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * ~~The Contract Administrator shall measure and value all Orders/~~
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of £~~ _____ ~~or more; the Contractor shall measure and value all other Orders/~~
- * The Contractor shall measure and value all Orders



11 Schedule of Rates
(Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

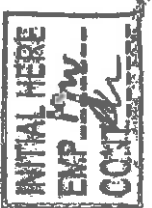
* the National Schedule of Rates

subject to adjustment of the rates listed in that Schedule by * the addition

of the Adjustment Percentage, which is As stated in the Tender Documents per cent

2 Where the Schedule of Rates is the National Schedule of Rates the version(s) identified opposite are to apply⁽¹⁾

* National Schedule of Rates (Electrical Services in Buildings)



3 Rates - Fluctuations

Clause 5-6-1
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

* does not apply

4 Basis and dates of revision
Not applicable.

12 Daywork
(Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation - percentage additions

⁽¹⁾ Delete all versions that do not apply. See also footnote [4].

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

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CONT. AK

Overheads and profit on Materials

As stated in the Tender Documents per cent

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EMP. EW
CONT. AK

Overheads and profit on Plant, Services and Consumable Stores

As stated in the Tender Documents per cent

INITIAL HERE
EMP. EW
CONT. AK

Overheads and profit on Sub-Contractors

As stated in the Tender Documents per cent

Revision of Schedule of Hourly Charges

Clause 5-6-3

(Unless 'applies' is deleted, the clause shall be deemed to apply.)

applies

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EMP. EW
CONT. AK

The annual revision date is

As stated in the Tender Documents

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EMP. EW
CONT. AK

The basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges¹

is set out in the following document
As stated in the Tender Documents

Overtime work
(Clause 5-7)

INITIAL HERE
EMP. EW
CONT. AK

The percentage addition in respect of overheads and profit on non-productive overtime rates is
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

Not applicable; all inclusive rate as stated in the Tender Documents per cent

14

Insurance

(Clauses 6-4-1-2, 6-9 and 6-11)

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EMP. EW
CONT. AK

1 Insurance cover for any one occurrence or series of occurrences arising out of one event

£5,000,000 (five million pounds)

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EMP. EW
CONT. AK

2 Percentage to cover professional fees

15 (fifteen) per cent

3 Annual renewal date of insurance as supplied by the Contractor

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EMP. EW
CONT. AK

Break Provisions – Employer or Contractor
(Clause 7-1)

The period of notice, if less than 13 weeks, is

9 (nine) months weeks

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EMP. EW
CONT. AK

¹ If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

16 **Settlement of Disputes**
(Clauses 9-2, 9-3 and 9-4-1)

Adjudication⁽¹⁰⁾

The Adjudicator is

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)⁽¹¹⁾

- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Construction Confederation~~
- * ~~National Specialist Contractors Council~~
- * ~~Chartered Institute of Arbitrators~~

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

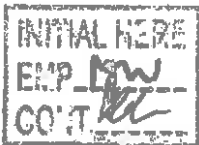


Arbitration⁽¹²⁾

Appointor of Arbitrator (and of any replacement)⁽¹³⁾

- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Chartered Institute of Arbitrators~~

(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)



⁽¹⁰⁾ The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

⁽¹¹⁾ Delete all but one of the nominating bodies asterisked.

⁽¹²⁾ This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

⁽¹³⁾ Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.



Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the Company Secretary or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the Company Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to Company Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "Company" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely ¹ Wolverhampton City Council

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

324/11

In the presence of

~~Signature~~ ~~Company Secretary/Director~~

~~Signature~~ ~~Company Secretary/Director~~

Authorized Officer



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Execution as a Deed

Executed as a Deed by the Contractor

namely 1 Midwest Electrical Contractors Limited

(A) acting by a Director and the Company Secretary/two Directors of the company 2,3

(Print name of signatory)

Signature Director

and

(Print name of signatory)

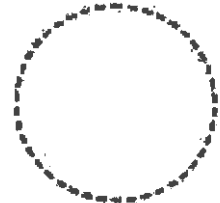
Signature Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate 2,4

in the presence of

Signature Director

Signature Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company 2,5

Signature Director

in the presence of

Witness' signature _____ (Print name) _____

Witness' address _____

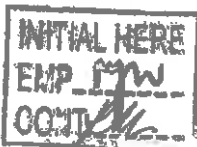
Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:
- | <i>Word or phrase</i> | <i>Meaning</i> |
|--|---|
| Adjudicator: | an individual appointed under clause 9-2 as the Adjudicator. |
| Adjustment Percentage: | the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork). |
| Agreement: | the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars. |
| All Risks Insurance: | see clause 6-6. |
| Arbitrator: | an individual appointed under clause 9-4 as the Arbitrator. |
| Article: | an article in the Agreement. |
| Business Day: | any day which is not a Saturday, a Sunday or a Public Holiday. |
| CDM Co-ordinator: | the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer. |
| CDM Regulations: | the Construction (Design and Management) Regulations 2007. |
| Conditions: | the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto. |
| Construction Industry Scheme (or 'CIS'): | the Construction Industry Scheme under the Finance Act 2004. |
| Construction Phase Plan: | the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions. |
| Contract Administrator: | the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1. |
| Contract Area: | see the First Recital. |
| Contract Documents: | the Agreement, these Conditions, <u>the completed Contract Particulars</u> and the Schedule of Rates <u>and all Sections of this Document</u> . |
| Contract Particulars: | the particulars in the Agreement and there described as such, as completed by the Parties. |
| Contract Period: | subject to clause 7-1, the period stated in the Contract Particulars (Item 3). |
| Contractor: | the person named as Contractor in the Agreement. |



Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on written instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ^[14]
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

^[14] Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6 Unless otherwise provided in these Conditions, any notice or other communication under this Contract may be given or served by any effective means to the recipient at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1-7 This Contract shall be governed by and construed in accordance with the law of England.^[15]

^[15] Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.



Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator in writing; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall inform the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled

to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date⁽¹⁴⁾ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8 ·1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a written notice specifying the divergence.
- 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10 ·1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
- 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator under this Contract that is not due to a default of

⁽¹⁴⁾ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

the Contractor), the Contract Administrator shall in writing fix such later date for completion as may be fair and reasonable. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator in writing the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent in writing, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor in writing and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

Any defects, shrinkages or other faults which appear within 12 (twelve) 6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

INITIAL: 2-12
EMP: *mw*
CON: *ll*

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the written consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior written consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time in writing require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required in writing under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it in writing.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may, in writing, cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for

payment by the Employer under that clause, any work or supply which in his opinion has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue written instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a written notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project¹⁷⁷ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase¹⁸⁰;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal

¹⁷⁷ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.
¹⁸⁰ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor, the Employer shall immediately upon such further appointment notify the Contractor in writing of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make a written application to the Contract Administrator for a progress payment in respect of that Order for the work carried out or supplies made by the Contractor pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, after taking into account any amounts previously certified in respect of the Order.
 - 2 Within 14 days of receipt of an application under clause 4-3-1 the Contract Administrator shall issue a certificate for payment by the Employer under clause 4-8, which states his estimate of the value of the work and/or supplies referred to in the Contractor's application, after taking into account any amounts previously certified. The certificate shall state the basis on which that estimate has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;
 - 2 if the Contract Administrator does not certify in accordance with clause 4-4-1, the Contractor may give notice to the Contract Administrator that if the certificate in respect of the completed Order is not received within 14 days of the date of that notice the Contractor may arrange for measurement and valuation of the Order and the submission of an account for it; within 7 days of receipt of such account the Contract Administrator shall certify the value of the completed Order, giving the particulars required by clause 4-4-1;
 - 3 if any such account from the Contractor is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should have been included in it, then, whether or not it has been certified, it shall be amended and the provisions of clause 4-5-3-1 shall apply to payment of it by the Employer.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contractor shall submit his account for the completed Order;
 - 2 within 28 days of receipt of that account the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was

calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;

- 3 if an account submitted by the Contractor pursuant to clause 4-5-1 is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should properly have been included in it, that account, whether or not it has been certified, shall be amended and the Employer:
 - 1 shall only be required to pay the corrected account or, if the uncorrected account has been paid, shall be entitled, subject to giving notice in accordance with clause 4-6-3, to recover the excess by withholding and/or deduction from any amount due or to become due to the Contractor under this Contract or may recover that excess from the Contractor as a debt; and
 - 2 may, subject to clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in finding the error;
- 4 if the Contractor fails to submit an account in accordance with clause 4-5-1 and if at the end of 28 days notice subsequently given to the Contractor by the Contract Administrator the Contractor has still failed to submit the account, the Contract Administrator may arrange for the measurement and valuation of the relevant work and/or supply and prepare the account for certification under clause 4-5-2. The Employer may, subject to giving notice in accordance with clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in respect of the measurement, valuation and preparation of the account.

Payment of certificates

- 4-6 -1 The final date for payment pursuant to any certificate issued by the Contract Administrator shall be 14 days from the date of issue of that certificate.
- 2 Not later than 5 days after the date of issue of a certificate the Employer shall give a written notice to the Contractor which shall, in respect of the amount stated as due in that certificate, specify the amount of the payment proposed to be made, to what the amount relates and the basis on which the amount has been calculated.
- 3 Not later than 5 days before the final date for payment the Employer may give a written notice to the Contractor which shall specify any amount proposed to be withheld or deducted from the amount due, the ground or grounds for such withholding or deduction and the amount of withholding or deduction attributable to each ground.
- 4 Subject to any notice given under clause 4-6-3, the Employer shall no later than the final date for payment pay the Contractor the amount specified in the notice given under clause 4-6-2 or, in the absence of a notice under clause 4-6-2, the amount stated as due in the certificate.
- 5 If the Employer fails properly to pay the amount, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to the amount not properly paid, pay the Contractor simple interest at the Interest Rate for the period until payment is made. Interest under this clause 4-6-5 shall be a debt due to the Contractor by the Employer. Acceptance of a payment of interest under this clause 4-6-5 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.

Contractor's right of suspension

- 4-7 Without affecting the Contractor's other rights and remedies, if the Employer, subject to any notice issued pursuant to clause 4-6-3, fails to pay the Contractor in full (including any VAT properly chargeable in respect of such payment) by the final date for payment as required by these Conditions and the failure continues for 7 days after the Contractor has given written notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend such performance until payment is made in full.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order; or
- 2 the addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him in writing) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars⁽¹⁰⁾.
 - 2 The Contractor shall give to the Contract Administrator reasonable notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and the Contractor shall deliver to the Contract Administrator for verification not later than 7 Business Days after the work has been executed return(s) in the form required by the Contract Administrator specifying the time daily spent upon the work, the workmen's names, and the plant, materials and other items employed. If approved by the Contract Administrator, the return(s) shall be copied to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

⁽¹⁰⁾ in addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6
- 1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year or such other annual revision date as is stated in that item in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed in writing by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4 -1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
- 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[20], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (Item 14-1) for any one occurrence or series of occurrences arising out of one event.^[21]
- 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
- 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[20] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[21] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (Item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site, or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

- All Risks Insurance^[220]:** insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:
- (a) property which is defective due to:
 - (i) wear and tear,
 - (ii) obsolescence, or
 - (iii) deterioration, rust or mildew;
 - (a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[221];
 - (b) loss or damage caused by or arising from:
 - (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
 - (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
 - (iii) an Excepted Risk.

Excepted Risks: ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

Joint Names Policy: a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an

^[220] Clause 6-6 defines by exclusions the risks that All Risks Insurance is required to cover: the required cover includes loss or damage caused by or arising from terrorism. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance. In particular the Parties should note the potential difficulty with respect to Terrorism Cover. Obtaining Terrorism Cover, which is necessary in order to comply with the Insurance requirements, will involve an additional premium and may in certain situations be difficult to effect. The exclusion of any element from the All Risks Insurance and its 'buy back' requires discussion between the Parties and their insurance advisers; these are matters that need to be arranged between the Parties and those advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[221] In any policy for All Risks Insurance taken out under clause 6-9, cover should not be reduced by the terms of any exclusion written in the policy beyond the terms of paragraph (b) in this definition of All Risks Insurance; thus an exclusion in terms 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of that clause or of that definition. Wider All Risks cover than that specified may be available to Contractors, though it is not standard.

Insured, or recognised as an insured thereunder.

Specified Perils: fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.

Terrorism Cover: insurance provided by a Joint Names Policy under clauses 6-7 and 6-9 for physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials or to an existing structure and/or its contents caused by terrorism.^[24]

Insurance of existing structures^[25]

- 6-7 -1 The Employer shall take out and maintain a policy of insurance (unless he has already done so) in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[26], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his Insurer of the identity of the properties in respect of which Orders may be Issued and the Contract Period (but that work or supply in respect of such properties pursuant to this Contract may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

- 6-8 -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by him in respect of the premiums pursuant to clause 6-8-1 shall be payable by the Employer to the Contractor and shall be recoverable from the Employer as a debt.
- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the Insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

^[24] As respects this definition, the extent of Terrorism Cover and possible difficulties in complying with the Insurance requirements, see footnote [22] and the Measured Term Contract Guide.

^[25] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[26] As to reinstatement value, Irrecoverable VAT and other costs, see the Measured Term Contract Guide.

6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-8^[27] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14-2) to cover professional fees)^[28] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (Inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
- 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

6-12 The Contractor shall before commencing to carry out the first Order under this Contract inform the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13**
- 1 If loss or damage affecting any executed work or supplies made pursuant to an Order or Site Materials is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice in writing both to the Contract Administrator and to the Employer of its extent, nature and location.
 - 2 Subject to clauses 6-13-4 and 6-15-4-2, the occurrence of such loss or damage shall be disregarded in computing any amounts payable to the Contractor under this Contract.
 - 3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged supplies made or Site Materials, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
 - 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Except where the Employer cancels the Order affected by such loss or damage the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under certificates of the Contract Administrator.

^[27] In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [22].

^[28] As to reinstatement value, Irrecoverable VAT and other costs, see the Measured Term Contract Guide.

- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – premium rate changes

- 6-14 ·1 If the rate on which the premium is based for Terrorism Cover required under the Joint Names Policy referred to in clause 6-9 or 6-11 is varied at any renewal of the cover, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in the rate.
- 2 Where the Employer is a Local Authority, the Employer may, in lieu of any adjustment of the amounts payable to the Contractor under clause 6-14-1, instruct the Contractor not to renew the Terrorism Cover under the Joint Names Policy and where he so instructs, the terms of clauses 6-15-4-1 and 6-15-4-2 shall apply from the renewal date if work executed and/or Site Materials suffer physical loss or damage caused by terrorism.

Terrorism Cover – non-availability – Employer's options

- 6-15 ·1 If the insurers named in a Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor in writing:
 - either
 - 1 that, notwithstanding the cessation of Terrorism Cover, the Employer requires that the work comprised in Orders continue to be carried out;
 - or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) the Contractor's employment under this Contract shall terminate.
- 3 If the Employer gives notice of termination under clause 6-15-2-2, a valuation of work completed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination shall be made and certified in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.
- 4 If the Employer does not give notice of termination under clause 6-15-2-2, then:
 - 1 If work executed and/or Site Materials under any Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-4 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party in writing not less than ~~9 (nine) months~~ ^{13-weeks} notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.



Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration and/or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions, a Party is Insolvent if:

- 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- 2 without a declaration of solvency, he passes a resolution or makes a determination that he be wound up; or
- 3 he has a winding up order or bankruptcy order made against him; or
- 4 he has appointed to him an administrator or administrative receiver; or
- 5 he is the subject of any analogous arrangement, event or proceedings in any other jurisdiction; or
- 6 (additionally, in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in clauses 8-1-1 to 8-1-5.

Notices under section 8

- 8-2
- 1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
 - 2 Such termination shall take effect on receipt of the relevant notice.
 - 3 Each notice referred to in this section shall be in writing and delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3
- 1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
 - 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
 the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2, (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5
- 1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.

- 2 The Contractor shall immediately notify the Employer in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
- 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 the provisions of clause 8-9 shall apply as if such notice had been given and the other provisions of this Contract which require any further payment shall cease to apply;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7 -1 If the Employer:
 - 1 does not pay by the final date for payment the amount properly due to the Contractor in respect of any certificate and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced, interferes with or obstructs the issue of any certificate; or
 - 3 fails to comply with CDM Regulations,

the Contractor may give to the Employer a notice specifying the default a 'specified default') or defaults.
- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 -1 Where the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6, the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant

- supplied) as has not been valued and certified before such termination; and
- 2 the amount of any direct loss and/or damage caused to the Employer by the termination.
 - 2 If the amount of direct loss and/or damage exceeds the value certified under clause 8-9-1 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor.
 - 3 The final date for payment of the amount of the difference referred to in clause 8-9-2 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10
- 1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
 - 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[200]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice in writing to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2005 edition of CIMAR.^[201]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a written notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[200] See the Measured Term Contract Guide.

^[201] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



Members

British Property Federation Limited
Construction Confederation
Local Government Association
National Specialist Contractors Council Limited
Royal Institute of British Architects
The Royal Institution of Chartered Surveyors
Scottish Building Contract Committee Limited

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JCT Contract

Between

Wolverhampton City Council (1)

And

R.D. Jukes Ltd (2)

Measured Term Contract

For

Electrical Repair, Inspection of
Testing of fan assisted heaters and
ventilation fans.



This contract has been amended from the original template.

MTC

2006

Measured Term Contract

Revision 2 2009

Measured Term Contract

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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For details of Revision 2 changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the 24 August 20 11

Between **The Employer** Wolverhampton City Council
of St Peter's Square Wolverhampton WV1 1RL

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And **The Contractor** R.D. Jukes & Co. Limited
(Company No. 1159706)^[1]

whose registered office is at Walsingham Works Walsingham Street Walsall WS1 2JZ

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^[1] Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

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First

the Employer requires Electrical Repair, maintenance and minor works, Inspection and Testing of Fan Assisted Heaters and Ventilation Fans to be carried out in:

Zone 3, Wolverhampton (identified in the Tender Documents pages A/2, A/3, and Appendix 4) ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;

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Second

the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;

Third

the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;

Fourth

the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(1) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;

Fifth

the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;

Sixth

the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

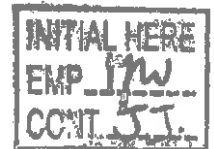
Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin, Head of Service, Property Design & Commissioning

of Wolverhampton City Council St Peter's Square Wolverhampton WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.



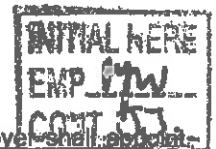
Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Limited

of Red Hill House 227 London Road Worcester WR5 2JG

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(1) of those regulations.



Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(2) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies^[2], then, subject to Article 6 and the exceptions set out below, any dispute

^[2] If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings^[5]

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

^[5] If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

Contract Particulars

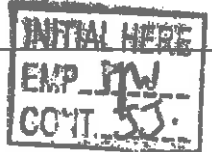
Note: An asterisk * indicates where selection has been or should have been made.

1 Properties and description of the types of work (First Recital)

- 1 List of properties in the Contract Area in respect of which Orders may be issued:

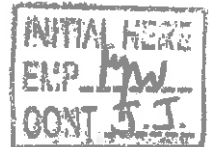
Wolverhampton City Council buildings (excluding housing) within the area of the City of

Wolverhampton



- 2 Description of the types of work for which Orders may be issued¹⁴:

Electrical repair, maintenance and minor works, inspection and testing of fan assisted heaters and ventilation fans



2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

Collaborative working	*	Paragraph 1 applies
Health and safety	*	Paragraph 2 applies
Cost savings and value improvements	*	Paragraph 3 applies
Sustainable development and environmental considerations	*	Paragraph 4 applies
Performance Indicators and monitoring	*	Paragraph 5 applies
Notification and negotiation of disputes	*	Paragraph 6 applies
Where paragraph 6 applies, the respective nominees of the Parties are		Employer's nominee



¹⁴ Where the National Schedule of Rates is to apply (see Items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in Item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

Contractor's nominee

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or such replacement as each Party may notify to the other from time to time

3 Contract Period⁽¹⁾
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be Four years
commencing on 1 July 2011

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9.3 to 9.8 apply.)⁽²⁾

Article 7 and clauses 9.3 to 9.8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2.4)

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Minimum value of any one Order to be issued
£25 (words Twenty-five pounds)

Maximum value of any one Order to be issued
£250,000 (words Two hundred and fifty thousand)

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6 Orders – value of work to be carried out
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

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* £600,000 (Alternative 'A') 1,000,000 (Alternative 'B') (words Six hundred thousand pounds (Alternative 'A') One million pounds (Alternative 'B')) per annum

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Orders – priority coding⁽³⁾
(Clause 2.6)

As stated in the Tender Documents

8 Construction Industry Scheme (CIS)
(Clause 4.2)

The Employer at the commencement of the Contract Period

⁽¹⁾ The period is envisaged as normally being at least one year.
⁽²⁾ On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
⁽³⁾ To be completed if the Employer requires; as an example the code might be:
• 'A': response time to be 4 hours;
• 'B': to be commenced within 2 days;
• 'C': to be commenced within 14 days;
• 'D': to be commenced as agreed.

* Is a 'contractor'
for the purposes of the CIS

9 Progress payments
(Clause 4.3.1)

Estimated value of an Order above which progress payments can be applied for (If none is stated, it is £2,500.) £5,000

10 Responsibility for measurement and valuation
(Clause 5.2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * The Contract Administrator shall measure and value all Orders/
- * The Contract Administrator shall measure and value each Order with an estimated value of £ _____ or more; the Contractor shall measure and value all other Orders/
- * The Contractor shall measure and value all Orders

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11 Schedule of Rates
(Clauses 5.3, 5.6.1 and 5.6.2)

1 The Schedule of Rates is

- * the National Schedule of Rates

subject to adjustment of the rates listed in that Schedule by the addition

of the Adjustment Percentage, which is As stated in the Tender Documents per cent

2 Where the Schedule of Rates is the National Schedule of Rates the version(s) identified opposite are to apply⁽¹⁾

- * National Schedule of Rates (Electrical Services in Buildings)

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CONT J.J.

3 Rates – Fluctuations

Clause 5.6.1 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * does not apply

4 Basis and dates of revision
Not applicable.

12 Daywork
(Clauses 5.4, 5.6.3 and 5.6.4)

1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage

⁽¹⁾ Delete all versions that do not apply. See also footnote [4].

additions to the invoice price of non-labour items are as follows:

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Overheads and profit on Materials As stated in the Tender Documents per cent

Overheads and profit on Plant, Services and Consumable Stores As stated in the Tender Documents per cent

Overheads and profit on Sub-Contractors As stated in the Tender Documents per cent

Revision of Schedule of Hourly Charges

Clause 5-6-3 * applies
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

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CONT. JJ

The annual revision date is As stated in the Tender Documents

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CONT. JJ

The basis of revision of hourly charges, if * is set out in the following document
not set out in the Schedule of Hourly Charges As stated in the Tender Documents

13 Overtime work (Clause 5-7)

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CONT. JJ

The percentage addition in respect of overheads and profit on non-productive overtime rates is Not applicable: inclusive rate as stated in the Tender Documents per cent
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

14 Insurance (Clauses 6-4-1-2, 6-9 and 6-11)

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CONT. JJ

Insurance cover for any one occurrence or series of occurrences arising out of one event £5,000,000

2 Percentage to cover professional fees 15 per cent

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3 Annual renewal date of insurance as supplied by the Contractor 15 (fifteen)

15 Break Provisions – Employer or Contractor (Clause 7-1)

The period of notice, if less than 13 weeks, is 9 (nine) months weeks

16 Settlement of Disputes

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¹⁰¹ If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

Adjudication^[10]

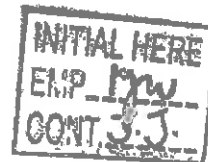
Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[11]
(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

Arbitration^[12]

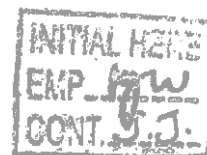
Appointor of Arbitrator (and of any replacement)^[13]
(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

The Adjudicator Is

- * ~~Royal Institute of British Architects~~
- * The Royal Institution of Chartered Surveyors
- * ~~Construction Confederation~~
- * National Specialist Contractors Council
- * ~~Chartered Institute of Arbitrators~~



- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
- * The Royal Institution of Chartered Surveyors
- * ~~Chartered Institute of Arbitrators~~



^[10] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

^[11] Delete all but one of the nominating bodies asterisked.

^[12] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9.3 to 9.8 (*Arbitration*) apply.

^[13] Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 'Wolverhampton City Council

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

325/11

in the presence of

~~Signature~~ ~~Director~~

~~Signature~~ ~~Company Secretary/Director~~



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Execution as a Deed

Executed as a Deed by the Contractor

namely 1 R.D. Jukes & Co. Limited

(A) acting by a Director and the Company Secretary/two Directors of the company ^{2,3}

[Redacted]
(Print name of signatory)

and

[Redacted]
(Print name of signatory)

[Redacted]
Signature Director

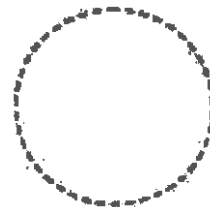
[Redacted]
Signature Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

In the presence of

Signature Director

Signature Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company ^{2,5}

Signature Director

in the presence of

Witness' signature _____ (Print name) _____

Witness' address _____

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions, <u>the completed Contract Particulars</u> , and the Schedule of Rates and all Sections of this Document.
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.

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Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on written instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹⁴⁹
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹⁴⁹ Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6 Unless otherwise provided in these Conditions, any notice or other communication under this Contract may be given or served by any effective means to the recipient at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1-7 This Contract shall be governed by and construed in accordance with the law of England.^[15]

^[15] Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator in writing; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall inform the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled

to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2.3.6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date¹⁴⁰ and a reasonable date for its completion and, subject to clause 2.10.2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8 -1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a written notice specifying the divergence.
- 2 Provided the Contractor is not in breach of clause 2.8.1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10 -1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
- 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4.7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator under this Contract that is not due to a default of

¹⁴⁰ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

the Contractor), the Contract Administrator shall in writing fix such later date for completion as may be fair and reasonable. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator in writing the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent in writing, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor in writing and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 12 (twelve) 6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.



Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the written consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior written consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time in writing require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required in writing under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it in writing.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may, in writing, cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for

payment by the Employer under that clause, any work or supply which in his opinion has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue written instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with Instructions

- 3-8 If within 7 days after receipt of a written notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁷⁾ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽¹⁸⁾;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 ·1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal

⁽¹⁷⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.
⁽¹⁸⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor, the Employer shall immediately upon such further appointment notify the Contractor in writing of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make a written application to the Contract Administrator for a progress payment in respect of that Order for the work carried out or supplies made by the Contractor pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, after taking into account any amounts previously certified in respect of the Order.
 - 2 Within 14 days of receipt of an application under clause 4-3-1 the Contract Administrator shall issue a certificate for payment by the Employer under clause 4-6, which states his estimate of the value of the work and/or supplies referred to in the Contractor's application, after taking into account any amounts previously certified. The certificate shall state the basis on which that estimate has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;
 - 2 if the Contract Administrator does not certify in accordance with clause 4-4-1, the Contractor may give notice to the Contract Administrator that if the certificate in respect of the completed Order is not received within 14 days of the date of that notice the Contractor may arrange for measurement and valuation of the Order and the submission of an account for it; within 7 days of receipt of such account the Contract Administrator shall certify the value of the completed Order, giving the particulars required by clause 4-4-1;
 - 3 if any such account from the Contractor is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should have been included in it, then, whether or not it has been certified, it shall be amended and the provisions of clause 4-5-3-1 shall apply to payment of it by the Employer.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 within 56 days of the Order Completion Date the Contractor shall submit his account for the completed Order;
 - 2 within 28 days of receipt of that account the Contract Administrator shall certify the value of the completed Order and state to what the value relates, the basis on which that value was

calculated and the amount to be paid by the Employer to the Contractor after taking into account any amounts previously certified in respect of the Order under clause 4-3-2;

- 3 If an account submitted by the Contractor pursuant to clause 4-5-1 is found by the Contract Administrator to contain errors in the Contractor's favour such that the total exceeds the amount that should properly have been included in it, that account, whether or not it has been certified, shall be amended and the Employer:
- 1 shall only be required to pay the corrected account or, if the uncorrected account has been paid, shall be entitled, subject to giving notice in accordance with clause 4-6-3, to recover the excess by withholding and/or deduction from any amount due or to become due to the Contractor under this Contract or may recover that excess from the Contractor as a debt; and
 - 2 may, subject to clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in finding the error;
- 4 if the Contractor fails to submit an account in accordance with clause 4-5-1 and if at the end of 28 days notice subsequently given to the Contractor by the Contract Administrator the Contractor has still failed to submit the account, the Contract Administrator may arrange for the measurement and valuation of the relevant work and/or supply and prepare the account for certification under clause 4-5-2. The Employer may, subject to giving notice in accordance with clause 4-6-3, withhold and/or deduct from any amount due or to become due to the Contractor under this Contract or recover from the Contractor as a debt all costs reasonably incurred by the Employer in respect of the measurement, valuation and preparation of the account.

Payment of certificates

- 4-6
- 1 The final date for payment pursuant to any certificate issued by the Contract Administrator shall be 14 days from the date of issue of that certificate.
 - 2 Not later than 5 days after the date of issue of a certificate the Employer shall give a written notice to the Contractor which shall, in respect of the amount stated as due in that certificate, specify the amount of the payment proposed to be made, to what the amount relates and the basis on which the amount has been calculated.
 - 3 Not later than 5 days before the final date for payment the Employer may give a written notice to the Contractor which shall specify any amount proposed to be withheld or deducted from the amount due, the ground or grounds for such withholding or deduction and the amount of withholding or deduction attributable to each ground.
 - 4 Subject to any notice given under clause 4-6-3, the Employer shall no later than the final date for payment pay the Contractor the amount specified in the notice given under clause 4-6-2 or, in the absence of a notice under clause 4-6-2, the amount stated as due in the certificate.
 - 5 If the Employer fails properly to pay the amount, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to the amount not properly paid, pay the Contractor simple interest at the Interest Rate for the period until payment is made. Interest under this clause 4-6-5 shall be a debt due to the Contractor by the Employer. Acceptance of a payment of interest under this clause 4-6-5 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.

Contractor's right of suspension

- 4-7 Without affecting the Contractor's other rights and remedies, if the Employer, subject to any notice issued pursuant to clause 4-6-3, fails to pay the Contractor in full (including any VAT properly chargeable in respect of such payment) by the final date for payment as required by these Conditions and the failure continues for 7 days after the Contractor has given written notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend such performance until payment is made in full.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order; or
- 2 the addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him in writing) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars⁽¹⁰⁾.
 - 2 The Contractor shall give to the Contract Administrator reasonable notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and the Contractor shall deliver to the Contract Administrator for verification not later than 7 Business Days after the work has been executed return(s) in the form required by the Contract Administrator specifying the time daily spent upon the work, the workmen's names, and the plant, materials and other items employed. If approved by the Contract Administrator, the return(s) shall be copied to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

⁽¹⁰⁾ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6 ·1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
- 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).
- 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
- 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year or such other annual revision date as is stated in that item in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
- 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-6 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
- 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7 ·1 For the purposes of this clause 5-7:
- 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
- 2 Where overtime work for an Order is specifically directed in writing by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).
- 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8 If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – Injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[20], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 14-1) for any one occurrence or series of occurrences arising out of one event.^[21]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[20] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[21] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site, or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance^[22]: insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[23];

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks: ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

Joint Names Policy: a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an

^[22] Clause 6-6 defines by exclusions the risks that All Risks Insurance is required to cover: the required cover includes loss or damage caused by or arising from terrorism. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance. In particular the Parties should note the potential difficulty with respect to Terrorism Cover. Obtaining Terrorism Cover, which is necessary in order to comply with the insurance requirements, will involve an additional premium and may in certain situations be difficult to effect. The exclusion of any element from the All Risks Insurance and its 'buy back' requires discussion between the Parties and their insurance advisers; these are matters that need to be arranged between the Parties and those advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[23] In any policy for All Risks Insurance taken out under clause 6-6, cover should not be reduced by the terms of any exclusion written in the policy beyond the terms of paragraph (b) in this definition of All Risks Insurance; thus an exclusion in terms 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of that clause or of that definition. Wider All Risks cover than that specified may be available to Contractors, though it is not standard.

insured, or recognised as an insured thereunder.

Specified Perils: fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.

Terrorism Cover: insurance provided by a Joint Names Policy under clauses 6-7 and 6-9 for physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials or to an existing structure and/or its contents caused by terrorism.^[24]

Insurance of existing structures^[25]

- 6-7 -1 The Employer shall take out and maintain a policy of insurance (unless he has already done so) in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[26], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but that work or supply in respect of such properties pursuant to this Contract may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of insurance

- 6-8 -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by him in respect of the premiums pursuant to clause 6-8-1 shall be payable by the Employer to the Contractor and shall be recoverable from the Employer as a debt.
- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

^[24] As respects this definition, the extent of Terrorism Cover and possible difficulties in complying with the insurance requirements, see footnote [22] and the Measured Term Contract Guide.

^[25] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[26] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

- 6-9** The Contractor shall take out (unless he has already done so) and shall maintain with Insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6^[27] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (Item 14-2) to cover professional fees)^[28] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:
- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
 - 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10** The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11** If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (Inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
- 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (Item 14-3).

Notification of occupation and use

- 6-12** The Contractor shall before commencing to carry out the first Order under this Contract inform the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13**
- 1 If loss or damage affecting any executed work or supplies made pursuant to an Order or Site Materials is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice in writing both to the Contract Administrator and to the Employer of its extent, nature and location.
 - 2 Subject to clauses 6-13-4 and 6-15-4-2, the occurrence of such loss or damage shall be disregarded in computing any amounts payable to the Contractor under this Contract.
 - 3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged supplies made or Site Materials, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
 - 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Except where the Employer cancels the Order affected by such loss or damage the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under certificates of the Contract Administrator.

^[27] In some cases it may not be possible for Insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [22].

^[28] As to reinstatement value, Irrecoverable VAT and other costs, see the Measured Term Contract Guide.

- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by Insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – premium rate changes

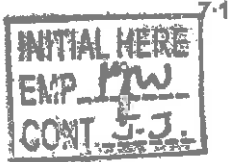
- 6-14 ·1 If the rate on which the premium is based for Terrorism Cover required under the Joint Names Policy referred to in clause 6-9 or 6-11 is varied at any renewal of the cover, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in the rate.
- 2 Where the Employer is a Local Authority, the Employer may, in lieu of any adjustment of the amounts payable to the Contractor under clause 6-14-1, instruct the Contractor not to renew the Terrorism Cover under the Joint Names Policy and where he so instructs, the terms of clauses 6-15-4-1 and 6-15-4-2 shall apply from the renewal date if work executed and/or Site Materials suffer physical loss or damage caused by terrorism.

Terrorism Cover – non-availability – Employer's options

- 6-15 ·1 If the insurers named in a Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor in writing:
 - either
 - 1 that, notwithstanding the cessation of Terrorism Cover, the Employer requires that the work comprised in Orders continue to be carried out;
 - or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) the Contractor's employment under this Contract shall terminate.
- 3 If the Employer gives notice of termination under clause 6-15-2-2, a valuation of work completed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination shall be made and certified in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.
- 4 If the Employer does not give notice of termination under clause 6-15-2-2, then:
 - 1 if work executed and/or Site Materials under any Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-4 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice



Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party in writing not less than 9 (nine) months~~the 13 weeks'~~ notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration and/or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

- 8-1** For the purposes of these Conditions, a Party is Insolvent if:
- 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 without a declaration of solvency, he passes a resolution or makes a determination that he be wound up; or
 - 3 he has a winding up order or bankruptcy order made against him; or
 - 4 he has appointed to him an administrator or administrative receiver; or
 - 5 he is the subject of any analogous arrangement, event or proceedings in any other jurisdiction; or
 - 6 (additionally, in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in clauses 8-1-1 to 8-1-5.

Notices under section 8

- 8-2**
- 1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
 - 2 Such termination shall take effect on receipt of the relevant notice.
 - 3 Each notice referred to in this section shall be in writing and delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3**
- 1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
 - 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4**
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
 the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2, (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5**
- 1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.

- 2 The Contractor shall immediately notify the Employer in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8·1.
- 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 the provisions of clause 8·9 shall apply as if such notice had been given and the other provisions of this Contract which require any further payment shall cease to apply;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8·6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8·7 ·1 If the Employer:
 - 1 does not pay by the final date for payment the amount properly due to the Contractor in respect of any certificate and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced, interferes with or obstructs the issue of any certificate; or
 - 3 fails to comply with CDM Regulations,

the Contractor may give to the Employer a notice specifying the default a 'specified default') or defaults.

 - 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8·7·1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
 - 3 If the Contractor for any reason does not give the further notice referred to in clause 8·7·2, but the Employer repeats a specified default (whether previously repeated or not) then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8·8 ·1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor in writing if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8·1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8·9 ·1 Where the Contractor's employment is terminated under clause 8·4, 8·5 or 8·6, the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant

- supplied) as has not been valued and certified before such termination; and
- 2 the amount of any direct loss and/or damage caused to the Employer by the termination.
- 2 If the amount of direct loss and/or damage exceeds the value certified under clause 8-9-1 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor.
- 3 The final date for payment of the amount of the difference referred to in clause 8-9-2 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 ·1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[20]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2005 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice in writing to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2005 edition of CIMAR.^[21]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a written notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[20] See the Measured Term Contract Guide.

^[21] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-6 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



Members

British Property Federation Limited
Construction Confederation
Local Government Association
National Specialist Contractors Council Limited
Royal Institute of British Architects
The Royal Institution of Chartered Surveyors
Scottish Building Contract Committee Limited

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JCT Contract

Between

Wolverhampton City Council (1)

And

J Lacey Steeplejacks Contractors
Ltd (2)

For the:

Term Contract for Lightning
Protection Systems.

at

Wolverhampton City Council Public
Buildings



This contract has been amended from the original template.

MTC 2011
Measured Term Contract 2011

2011

MEASURED TERM CONTRACT

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the 28th May 2013

Between **The Employer** Wolverhampton City Council
of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

And **The Contractor** J Lacey Steeplejacks Contractors Ltd
(Company No. 01788368)*†
whose registered office is at 50 Bickford Road, Witton, Birmingham, B6 7EE

^[†] Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires Planned Service Work and Minor Improvements to lightning Protection services, maintenance and minor works to be carried out in:
City of Wolverhampton ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounte calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin

of Head of property Services, City Services, Wolverhampton City Council, Civic Centre, St Peters Square, Wolverhampton, WV1 1RL.

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Limited

of Red Hill House, 227 London Road, Worcester, WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies¹⁹, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings¹⁹

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

¹⁹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

Contract Particulars

*Note: An asterisk * Indicates where selection has been or should have been made.*

1 Properties and description of the types of work (First Recital)

- 1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Council buildings (excluding housing) within the area of the City of
Wolverhampton.

- 2 Description of the types of work for which Orders may be issued¹⁴:

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is
deleted, the relevant paragraph applies.)

Collaborative working	* Paragraph 1 applies
Health and safety	* Paragraph 2 applies
Cost savings and value improvements	* Paragraph 3 applies
Sustainable development and environmental considerations	* Paragraph 4 applies
Performance Indicators and monitoring	* Paragraph 5 applies
Notification and negotiation of disputes	* Paragraph 6 applies

¹⁴ Where the National Schedule of Rates is to apply (see items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in Item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

Where paragraph 6 applies, the respective nominees of the Parties are

Employer's nominee

[REDACTED]

Contractor's nominee

[REDACTED]

or such replacement as each Party may notify to the other from time to time

3 Contract Period^[1]

(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be 5 years

commencing on 1st June 2013

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9.3 to 9.8 apply.)^[2]

* Article 7 and clauses 9.3 to 9.8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2.4)

Minimum value of any one Order to be issued

£N/A (words N/A)

Maximum value of any one Order to be issued

£N/A (words N/A)

6 Orders – value of work to be carried out
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

* £8,000 (words Eight Thousand) per annum

7 Orders – priority coding^[3]
(Clause 2.6)

As stated in the tender documents

8 Construction Industry Scheme (CIS)
(Clause 4.2)

^[1] The period is envisaged as normally being at least one year.
^[2] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
^[3] To be completed if the Employer requires; as an example the code might be:
 • 'A': response time to be 4 hours;
 • 'B': to be commenced within 2 days;
 • 'C': to be commenced within 14 days;
 • 'D': to be commenced as agreed.

* is a 'contractor'
 for the purposes of the CIS

9 Progress payments
 (Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for
 (If none is stated, it is £2,500.) £N/A

10 Responsibility for measurement and valuation
 (Clause 5-2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * ~~The Contract Administrator shall measure and value all Orders/~~
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of £_____ or more; the Contractor shall measure and value all other Orders/~~
- * The Contractor shall measure and value all Orders

11 Schedule of Rates
 (Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

- * The Schedule of Rates is as priced in the tendered Schedule (Part E) (Identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by

- * the addition/
- * the deduction

of the Adjustment Percentage, which is per cent

2 Not applicable.

3 Rates – Fluctuations

Clause 5-6-1 * applies
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

4 Basis and dates of revision
 (Not applicable where the National Schedule of Rates applies)

The basis on which the Schedule of Rates is to be revised under clause 5-6-1-2
(If no basis is identified the rates remain fixed for all Orders.)

- * Is as follows
The tendered prices will apply for the period up to 31st March 2014. With effect from the 1st April 2014, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institute of Chartered Surveyors for the third quarter immediately prior to the revision date and the third quarter previously published.

Where clause 5-6-1 applies, the dates as at which the Schedule of Rates is to be revised are
(If no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)

12 Daywork
 (Clauses 5-4, 5-6-3 and 5-6-4)

-1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Overheads and profit on Materials	<u>As stated in the tender documents per cent</u>
Overheads and profit on Plant, Services and Consumable Stores	<u>As stated in the tender documents per cent</u>
Overheads and profit on Sub-Contractors	<u>As stated in the tender documents per cent</u>

-2 Revision of Schedule of Hourly Charges

Clause 5-6-3 * applies
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

The annual revision date is

The basis of revision of hourly charges, if ^{*} not set out in the Schedule of Hourly Charges^M is set out in the following document
As set out in the tender documents

13 Overtime work
 (Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is Not Applicable per cent
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

14 Insurance
 (Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

-1 Insurance cover for any one occurrence or series of occurrences arising out of one event £5,000,000

^M If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.



-2	Percentage to cover professional fees	<u>15 per cent</u>
-3	Annual renewal date of insurance as supplied by the Contractor	<u>to be supplied by the Contractor</u>
-4	Terrorism Cover – details of the required cover <i>(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)</i>	<u>Pool re cover</u>
15	Break Provisions – Employer or Contractor (Clause 7.1)	
	The period of notice, if less than 13 weeks, is	<u>9 Months -weeks</u>
16	Settlement of Disputes (Clauses 9-2, 9-3 and 9-4.1)	
	Adjudication^[10]	The Adjudicator is <u>None stated</u>
	Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established) ^[11] <i>(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)</i>	<ul style="list-style-type: none"> * Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * constructionadjudicators.com^[12] * Association of Independent Construction Adjudicators^[13] * Chartered Institute of Arbitrators
	Arbitration^[14]	
	Appointor of Arbitrator (and of any replacement) ^[15] <i>(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)</i>	<ul style="list-style-type: none"> President or a Vice-President: * Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * Chartered Institute of Arbitrators

[10] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

[11] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

[12] Deletes all but one of the nominating bodies asterisked.

[13] Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

[14] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

[15] Deletes all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 1 Wolverhampton City Council

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

~~in the presence of~~

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council in the presence of:



Signature Authorised Officer Director

Signature Company Secretary/Director

302/13



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Executed as a Deed by the Contractor

namely : Lacey Steeplejacks Contractors Ltd

(A) acting by a Director and the Company Secretary/two Directors of the company 2.3

(Print name of signatory)

Signature / Director

and

(Print name of signatory)

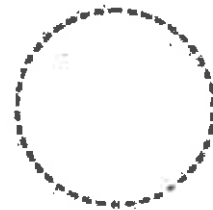
Signature Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate 2.4

In the presence of

Signature Director

Signature Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company 2.5

Signature Director

In the presence of

Witness' signature _____ (Print name) _____

Witness' address _____

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions, <u>the completed Contractor Particulars, and the Schedule of Rates and all Sections of this Document.</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.

Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹³⁴
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹³⁴ Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

1-7 This Contract shall be governed by and construed in accordance with the law of England,¹⁷¹

¹⁷¹ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's Instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare;

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods

or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date¹¹⁸ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any

¹¹⁸ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

instruction of the Contract Administrator that does not arise from the Contractor's default), the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2.4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11
- 1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
 - 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 12.6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁾ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽²⁾;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

⁽¹⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.
⁽²⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
 - 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
 - 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-6-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 if the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- the basis on which that sum has been calculated;
- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3 If the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
 - 4 If the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
 - 5 If clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 ·1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4-7
 - 1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4-6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4-7-1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
- 2 any other addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 10).

Valuation – measurement

- 5-3 ·1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
- 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4 ·1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²¹.
- 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5 ·1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
- 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²¹ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6 -1 Unless it is stated in the Contract Particulars (Item 11-3) that this clause 5-6-1 does not apply:
- 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (Item 11-4).
- 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
- 3 Unless it is stated in the Contract Particulars (Item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
- 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-6-3 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
- 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7 -1 For the purposes of this clause 5-7:
- 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
- 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).
- 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8 If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 In respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[24], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 14-1) for any one occurrence or series of occurrences arising out of one event.^[24]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[24] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[25] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance²⁴⁶:

insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective²⁴⁸;

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);
- (b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

²⁴⁶ The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

²⁴⁸ In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.^[24]
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6.15.1, to an existing structure and/or its contents) caused by or resulting from terrorism.^[24]

Insurance of existing structures^[27]

- 6-7 .1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[28], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- .1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2.10 or by agreement pursuant to clause 2.4 occurs after the end of the Contract Period); or
 - .2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- .2 The policy referred to in clause 6.7.1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- .3 In respect of the insurance referred to in clause 6.7.1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

- 6-8 .1 Except where the Employer is a Local Authority:
- .1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6.7.1 has been taken out and is being maintained; and
 - .2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

^[24] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.

^[27] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6.7.2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

- 6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-8^{FO} for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (Item 14-2) to cover professional fees)^{FO} up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:
 - 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-8; and
 - 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

- 6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the Insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the Insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13 -1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
- 2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

^{FO} In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

- disregarded in computing any amounts payable to the Contractor under this Contract.
- 3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
 - 4 The Contractor shall authorise the insurers to pay all monies from such Insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
 - 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
 - 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 ·1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (Item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 ·1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.

- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6-15-2-2 and there is no requirement for cover under clause 6-15-3:
- 1 If work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-5-2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than 9 months ~~43 weeks~~ notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes Insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes Insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an Individual becomes Insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes Insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (In the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1-1 to 8-1-4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 -1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 -1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4 -1 If the Contractor:
- 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
- the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
- 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5 -1 If the Contractor is insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
- 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
- 3 As from the date the Contractor becomes insolvent, whether or not the Employer has given such notice of termination:
- 1 clause 8-9 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7 -1 If the Employer:
- 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,
- the Contractor may give to the Employer a notice specifying the default a 'specified

default') or defaults.

- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 if the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.¹²⁴

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.¹²⁵

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 Identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (Item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

¹²⁴ See the Measured Term Contract Guide.

¹²⁵ Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



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Wolverhampton
City Council



Term Contract

For Lift Maintenance and Servicing

At Wolverhampton City Council
Public Buildings

For Wolverhampton City Council

AMP14 3027



This contract has been amended from the original template.

**MTC 2011
Measured Term Contract 2011**

2011

MEASURED TERM CONTRACT



Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the 8th April 2015

Between **The Employer** Wolverhampton City Council
of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

And **The Contractor** Concept Elevators (Midlands) Limited
(Company No. 03768278)⁽¹⁾
whose registered office is at Concept House, Jerome Road, Norton Canes, Cannock, WS11 9UE

⁽¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires lift maintenance and servicing for minor works to be carried out in:
Wolverhampton City Council's Public Buildings ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Chris East

of Head of Facilities Management, City Services, Delivery Directorate, Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

CM2H Hill

of Red Hill House, 227 London Road, Worcester WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies³⁹¹, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings³⁹¹

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

³⁹¹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

1 Properties and description of the types of work (First Recital)

- 1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Council properties within the area of the City of Wolverhampton.

- 2 Description of the types of work for which Orders may be issued¹⁴:

Lift Maintenance and servicing

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

Collaborative working	* Paragraph 1 does not apply
Health and safety	* Paragraph 2 does not apply
Cost savings and value improvements	* Paragraph 3 does not apply
Sustainable development and environmental considerations	* Paragraph 4 does not apply
Performance indicators and monitoring	* Paragraph 5 does not apply
Notification and negotiation of disputes	* Paragraph 6 does not apply

3 Contract Period¹⁵ (Article 1 and clause 7-1)

Subject to clause 7-1, the Contract Period will be two years

¹⁴ Where the National Schedule of Rates is to apply (see items 11-1 and 11-2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11-2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

¹⁵ The period is envisaged as normally being at least one year.

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9-3 to 9-8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9-3 to 9-8 apply.)^[6]

* Article 7 and clauses 9-3 to 9-8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2-4)

Minimum value of any one Order to be issued
£N/A (words N/A)

Maximum value of any one Order to be issued
£N/A (words N/A)

6 Orders – value of work to be carried out
(Clause 2-5)

Approximate anticipated value of work to be carried out under this Contract

* £70,000 (words Seventy thousand pounds) per annum

7 Orders – priority coding^[7]
(Clause 2-6)

as stated in the tender documents

8 Construction Industry Scheme (CIS)
(Clause 4-2)

The Employer at the commencement of the Contract Period
* is a 'contractor'
for the purposes of the CIS

9 Progress payments
(Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for
(If none is stated, it is £2,500.) £N/A

10 Responsibility for measurement and valuation
(Clause 5-2)

^[6] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].

^[7] To be completed if the Employer requires; as an example the code might be:

- 'A': response time to be 4 hours;
- 'B': to be commenced within 2 days;
- 'C': to be commenced within 14 days;
- 'D': to be commenced as agreed.

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * ~~The Contract Administrator shall measure and value all Orders/~~
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of £ _____ or more; the Contractor shall measure and value all other Orders/~~
- * The Contractor shall measure and value all Orders

11 Schedule of Rates
(Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

- * the Schedule of rates as priced in the tendered schedule (Part E) (Identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by

- * the addition/
- * the deduction

of the Adjustment Percentage, which is per cent

2 Not applicable.

3 Rates – Fluctuations

Clause 5-6-1
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * does not apply

4 Basis and dates of revision
Not applicable.

12 Daywork
(Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Overheads and profit on Materials As stated in the tender documents per cent

Overheads and profit on Plant, Services and Consumable Stores As stated in the tender documents per cent

Overheads and profit on Sub-Contractors As stated in the tender documents per cent

2 Revision of Schedule of Hourly Charges

Clause 5-6-3
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * does not apply

13 Overtime work
(Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is per cent
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

14 Insurance
(Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

- 1 Insurance cover for any one occurrence or series of occurrences arising out of one event £10,000,000.00
- 2 Percentage to cover professional fees 15 per cent
- 3 Annual renewal date of insurance as supplied by the Contractor
- 4 Terrorism Cover – details of the required cover
(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.) Pool Re Cover

15 Break Provisions – Employer or Contractor
(Clause 7-1)

The period of notice, if less than 13 weeks, is the notice period is 26 weeks

16 Settlement of Disputes
(Clauses 9-2, 9-3 and 9-4-1)

Adjudication⁽¹⁰⁾

The Adjudicator is none are stated

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)⁽¹¹⁾
(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * constructionadjudicators.com⁽¹²⁾
- * Association of Independent Construction Adjudicators⁽¹³⁾
- * Chartered Institute of Arbitrators

⁽¹⁰⁾ The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

⁽¹²⁾ constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

⁽¹¹⁾ Delete all but one of the nominating bodies asterisked.

⁽¹³⁾ Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.



Appointor of Arbitrator (and of any replacement)¹⁴
(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
- * The Royal Institution of Chartered Surveyors
- * ~~Chartered Institute of Arbitrators~~

¹⁴ This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

¹⁵ Delete all but one of the nominating bodies asterisked.



Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 'Wolverhampton City Council'

(B) ~~by affixing hereto the common seal of the company/other body corporate~~^{4.4}

~~In the presence of~~

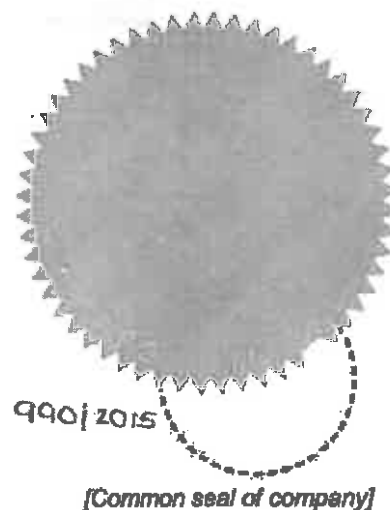
IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council in the presence of:



Signature Authorised Officer Director

Signature Company Secretary/Director



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.



Executed as a Deed by the Contractor

namely ' Concept Elevators (Midlands) Limited

(A) acting by a Director and the Company Secretary/two Directors of the company 2.3

and

(Print name of signatory)

(Print name of signatory)

Signature Director

Signature Company Secretary/Director

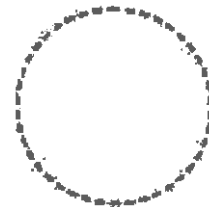
(B) by affixing hereto the common seal of the company/other body corporate 2.4

In the presence of.



Signature Director

Signature Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company 2.5



Signature Director

In the presence of

Witness' signature  (Print name) 

Witness' address 

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions, <u>the completed Contract Particulars and the Schedule of Rates, and all sections of this Document.</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.

Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on Instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹¹⁹
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixated materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹¹⁹ Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1.7 This Contract shall be governed by and construed in accordance with the law of England.¹⁷⁷

¹⁷⁷ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's Instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods

or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (Item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (Item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (Item 7), each Order shall state a commencement date¹¹⁴ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any

¹¹⁴ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.



instruction of the Contract Administrator that does not arise from the Contractor's default), the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11
- 1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
 - 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 12 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁹⁾ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽²⁰⁾;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

⁽¹⁹⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

⁽²⁰⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
 - 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
 - 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-6-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 If the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- the basis on which that sum has been calculated;
- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3 If the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
 - 4 if the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
 - 5 if clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 ·1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as

being authorised to do so.

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4; it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4-7
 - 1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4-6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4-7-1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
- 2 any other addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (Item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²⁷¹.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²⁷¹ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6
- 1 Unless it is stated in the Contract Particulars (Item 11-3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (Item 11-4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (Item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-6-3 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (Item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's Insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[22], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 14-1) for any one occurrence or series of occurrences arising out of one event.^[23]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

[22] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

[23] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 14).

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

- All Risks Insurance^[24]:** insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:
- (a) property which is defective due to:
 - (i) wear and tear,
 - (ii) obsolescence, or
 - (iii) deterioration, rust or mildew;
 - (a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[25];
 - (b) loss or damage caused by or arising from:
 - (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
 - (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
 - (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);
- (b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

^[24] The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[25] In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the Insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.^[26]
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-15-1, to an existing structure and/or its contents) caused by or resulting from terrorism.^[26]

Insurance of existing structures^[27]

- 6-7** -1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[28], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of insurance

- 6-8** -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

^[26] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.

^[27] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

- 6-9 The Contractor shall take out (unless he has already done so) and shall maintain with Insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6^[24] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14-2) to cover professional fees)^[24] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:
 - 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
 - 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

- 6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13
 - 1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
 - 2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

^[24] In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

- disregarded in computing any amounts payable to the Contractor under this Contract.
- 3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
 - 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
 - 5 The Employer may retain from the monies paid by the Insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by Insurers in respect of those fees.
 - 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 ·1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 ·1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4.6.

- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6.15.2.2 and there is no requirement for cover under clause 6.15.3:
- 1 if work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6.15.5.2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than ~~43 weeks~~ 9 months notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes Insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes Insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an Individual becomes Insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes Insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1-1 to 8-1-4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 -1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 -1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

Default by Contractor

- 8-4 -1 If the Contractor:
- 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
- the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
- 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5 -1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
- 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 clause 8-9 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7 -1 If the Employer:
- 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,
- the Contractor may give to the Employer a notice specifying the default a 'specified

- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 Insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 if the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[20]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.^[21]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 Identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (Item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[20] See the Measured Term Contract Guide.

^[21] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.



- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



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This contract has been amended from the original template.

MTC 2011
Measured Term Contract 2011

2011

MEASURED TERM CONTRACT



Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the 13th May 2015

Between **The Employer** Wolverhampton City Council
of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RG

And **The Contractor** Quartzelec Ltd
(Company No. 02364716)¹⁹
whose registered office is at Castle Mound Way, Central Park, Rugby, Warwickshire, CV23 0WB

¹⁹ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires maintenance and minor works to be carried out in:
Term contract for electrical testing of fixed electrical systems ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to Items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Chris East

of Head of Facilities Management, Wolverhampton City Council, Civic Centre, St Peter's square, Wolverhampton, WV1 1RG

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3-10-1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

CM2H Hill

of Red Hill House, 227 London Road, Worcester WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9-2.

Article 7: Arbitration

Where Article 7 applies²⁴, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings²⁴

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

²⁴ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

1 Properties and description of the types of work (First Recital)

- 1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Council's buildings (excluding domestic housing) within the area of the City of Wolverhampton

- 2 Description of the types of work for which Orders may be issued:

Electrical inspection and testing of fixed electrical systems to public buildings (electrical inspection condition Report as defined by BS7671)

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

Collaborative working	<ul style="list-style-type: none"> * Paragraph 1 <u>to be agreed applies/does not apply</u>
Health and safety	<ul style="list-style-type: none"> * Paragraph 2 <u>to be agreed applies/does not apply</u>
Cost savings and value improvements	<ul style="list-style-type: none"> * Paragraph 3 <u>to be agreed applies/does not apply</u>
Sustainable development and environmental considerations	<ul style="list-style-type: none"> * Paragraph 4 <u>to be agreed applies/does not apply</u>
Performance Indicators and monitoring	<ul style="list-style-type: none"> * Paragraph 5 <u>to be agreed applies/does not apply</u>
Notification and negotiation of disputes	<ul style="list-style-type: none"> * Paragraph 6 <u>to be agreed applies/does not apply</u>
Where paragraph 6 applies, the respective nominees of the Parties are	<p>Employer's nominee <u>— Neil Woolley</u></p>

¹⁴ Where the National Schedule of Rates is to apply (see items 11-1 and 11-2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11-2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

Contractor's nominee

or such replacement as each Party may notify to the other from time to time

3 Contract Period^m
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be three years
commencing on 1st April 2015

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9.3 to 9.8 apply.)^m

Article 7 and clauses 9.3 to 9.8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2.4)

Minimum value of any one Order to be issued
£not applicable (words not applicable)

Maximum value of any one Order to be issued
£not applicable (words not applicable)

6 Orders – value of work to be carried out
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

- £400,000.00 (words four hundred thousand pounds) per annum

7 Orders – priority coding^m
(Clause 2.6)

Not required.

8 Construction Industry Scheme (CIS)

^m The period is envisaged as normally being at least one year.
^m On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
^m To be completed if the Employer requires; as an example the code might be:
• 'A': response time to be 4 hours;
• 'B': to be commenced within 2 days;
• 'C': to be commenced within 14 days;
• 'D': to be commenced as agreed.

The Employer at the commencement of the Contract Period

* is a 'contractor'
 for the purposes of the CIS

9 Progress payments
 (Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for
 (If none is stated, it is £2,500.) £not applicable

10 Responsibility for measurement and valuation
 (Clause 5-2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * ~~The Contract Administrator shall measure and value all Orders/~~
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of £_____ or more; the Contractor shall measure and value all other Orders/~~
- * The Contractor shall measure and value all Orders

11 Schedule of Rates
 (Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

* The Schedule of rates is the tendered schedule of rates (part F of the documentation) (Identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by * the addition/
* the deduction

of the Adjustment Percentage, which is per-cent not applicable

2 Not applicable.

3 Rates – Fluctuations

Clause 5-6-1 * applies
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

4 Basis and dates of revision
 (Not applicable where the National Schedule of Rates applies)

The basis on which the Schedule of Rates is to be revised under clause 5-6-1-2 * is as follows
(If no basis is identified the rates remain fixed for all Orders.)
The priced Schedule of Rates will apply to the valuation of orders issued prior to 31 March 2016. With effect from 1 April 2016, and subsequent annual intervals, the Contractor will be entitled to be paid revisions to the rates based on the percentage adjustment by which the cost

index for the third quarter of the year immediately prior to the revision date exceeds or is less than the cost index published one year previously. The cost index will be the BCIS mechanical and electrical cost index published by the Royal Institution of Chartered Surveyors.

Where clause 5-6-1 applies, the dates as at which the Schedule of Rates is to be revised are
(If no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)

1st April 2016

12 Daywork
(Clauses 5-4, 5-6-3 and 5-6-4)

- 1 Valuation – percentage additions

~~Included in or annexed to the Schedule of Hourly Charges. not applicable~~

- 2 Revision of Schedule of Hourly Charges

Clause 5-6-3
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * applies/
- * does not apply

(Where clause 5-6-3 applies) the annual revision date (if other than 1 August) is

not applicable

(Where clause 5-6-3 applies) the basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges^m

- * is as follows/
 - * is set out in the following document
- not applicable

13 Overtime work
(Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

As Part G of the Specification for Electrical Inspection and Testing for Fixed Electrical Systems (Electrical Inspection Condition Report as defined by BS7671), per cent

14 Insurance
(Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

- 1 Insurance cover for any one occurrence

£10,000,000.00*

^m If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

or series of occurrences arising out of one event

-2 Percentage to cover professional fees **15 per cent**

-3 Annual renewal date of insurance as supplied by the Contractor

-4 Terrorism Cover – details of the required cover **Pool re Cover**
(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)

15 Break Provisions – Employer or Contractor (Clause 7.4)

~~The period of notice, if less than 13 weeks, is~~ weeks

16 Settlement of Disputes (Clauses 9.2, 9.3 and 9.4.1)

Adjudication^[10]

The Adjudicator is none are stated

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[11]

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * constructionadjudicators.com^[12]
- * Association of Independent Construction Adjudicators^[13]
- * Chartered Institute of Arbitrators

Arbitration^[14]

Appointor of Arbitrator (and of any replacement)^[15]

(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- President or a Vice-President:
- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * Chartered Institute of Arbitrators

[10] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

[12] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

[11] Delete all but one of the nominating bodies asterisked.

[13] Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

[14] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9.3 to 9.6 (Arbitration) apply.

[15] Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the Company Secretary or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the Company Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to Company Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "Company" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely Wolverhampton City Council

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

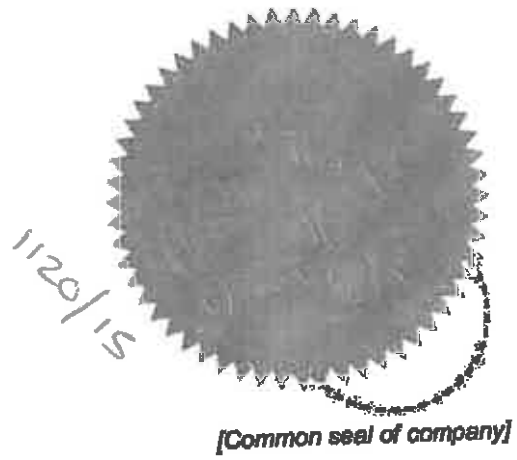
In the presence of

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council in the presence of:


Signature Authorised Officer/Director

Signature Company Secretary/Director



Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Executed as a Deed by the Contractor

Execution as a Deed

namely 'Quartzelec Ltd

(A) acting by a Director and the Company Secretary/two Directors of the company 2.1

and

(Print name of signatory)

(Print name of signatory)

Signature Director

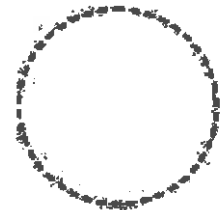
Signature Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate 2.4

in the presence of

Signature Director

Signature Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company 2.1

Signature Director

in the presence of

Witness' signature _____ *(Print name)* _____

Witness' address _____

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions and the Schedule of Rates.
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.
Contractor's Persons:	the Contractor's employees and agents, all other persons

	employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ⁽⁴⁾
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixated materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.
Specified Perils:	see clause 6-6.

⁽⁴⁾ Amend as necessary if different Public Holidays are applicable.

Statutory Requirements: any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.

Statutory Undertaker: any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.

Terrorism Cover: see clause 6-6.

Variation: see clause 5-1.

VAT: Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:

- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
- 2 the singular includes the plural and vice versa;
- 3 a gender includes any other gender;
- 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
- 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

¹⁷⁷ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's Instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods

or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (Item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (Item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (Item 7), each Order shall state a commencement date¹¹⁰ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8 -1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
- 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10 -1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
- 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any

¹¹⁰ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

instruction of the Contract Administrator that does not arise from the Contractor's default), the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁾ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽²⁾;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

⁽¹⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.
⁽²⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (Item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3 -1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
- 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (Item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more
- the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
- 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
- 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-3-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 if the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- the basis on which that sum has been calculated;
- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3 If the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
 - 4 If the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
 - 5 If clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 -1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as

being authorised to do so.

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4-7
 - 1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4-6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4-7-1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

- 5-1 The term 'Variation' means:
- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
 - 2 any other addition to, omission from or alteration of any Order; or
 - 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (Item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²⁷¹.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²⁷¹ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

- 5-6
- 1 Unless it is stated in the Contract Particulars (Item 11-3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (Item 11-4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (Item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that Item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (Item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 In respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[22], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (Item 14-1) for any one occurrence or series of occurrences arising out of one event.^[23]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

[22] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

[23] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (Item 14).

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance¹²⁴:

insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective¹²⁵;

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);

(b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

¹²⁴ The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

¹²⁵ In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the Insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.²²⁸
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-15-1, to an existing structure and/or its contents) caused by or resulting from terrorism.²²⁹

Insurance of existing structures²²⁷

- 6-7 -1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement²²⁸, repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of insurance

- 6-8 -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

²²⁸ As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.
²²⁷ Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

²²⁹ As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

- 6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6 for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14-2) to cover professional fees) up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
 -2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
 -2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

- 6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13 -1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
 -2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

²⁴ In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

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disregarded in computing any amounts payable to the Contractor under this Contract.

- 3 After any inspection required by the Insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
- 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 -1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (Item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 -1 If the Insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

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those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4.6.

- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6.15.2.2 and there is no requirement for cover under clause 6.15.3:
- 1 If work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6.15.5.2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than 13 weeks' notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an individual becomes insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1-1 to 8-1-4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 ·1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 ·1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

Default by Contractor

- 8-4**
- 1** If the Contractor:
 - 1** fails to comply with the CDM Regulations; or
 - 2** without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
 the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2** If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3** If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5**
- 1** If the Contractor is insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
 - 2** The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3** As from the date the Contractor becomes insolvent, whether or not the Employer has given such notice of termination:
 - 1** clause 8-9 shall apply as if such notice had been given;
 - 2** the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3** the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6** The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7**
- 1** If the Employer:
 - 1** does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2** without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3** interferes with or obstructs the issue of any certificate; or
 - 4** fails to comply with CDM Regulations,
 the Contractor may give to the Employer a notice specifying the default a 'specified

- default') or defaults.
- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
 - 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 If the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 if the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[20]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.^[21]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[20] See the Measured Term Contract Guide.

^[21] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Rectal)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



Members

- British Property Federation Limited
- Contractors Legal Grp Limited
- Local Government Association
- National Specialist Contractors Council Limited
- Royal Institute of British Architects
- The Royal Institution of Chartered Surveyors
- Scottish Building Contract Committee Limited

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SECTION C SPECIFICATION

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PART A - PRELIMINARIES

SCOPE OF WORK

- 1 The work comprises carrying out Fixed Electrical Inspection and testing of fixed Electrical systems, for Wolverhampton City Council's public Buildings for a period of three years, with a possible further one year extension subject to satisfactory performance of key performance indicators in years 1 and 2.

The tenderer is advised that the work is for Fixed Electrical Inspection and Testing of fixed Electrical systems only and not for the associated repairs. The tenderer however may be requested to provide emergency or temporary repairs in certain circumstances.

- 2 Part D provides an indicative list of the number and type of properties to be inspected under the contract.
- 3 The tenderer is advised that the number of properties and the floor areas are only approximate values and may alter both within the tender period and during the course of the contract period.

EMPLOYER'S REQUIREMENTS

- 4 The Contractor shall provide within both normal and out of hours, as instructed by Wolverhampton City Council, Electrical Inspection and Testing of its public buildings.
- 5 Normal working hours are defined as 0800 - 1700 hours every Monday to Friday throughout the year excluding Bank Holidays. Out of hours is defined as all other times including night working.
- 6 A pre-start meeting, with all parties, should take place to agree order of works and general 'housekeeping' issues.
- 7 Fully documented Inspection Reports for sites shall be issued with the associated invoice for payment within 56 Days of the inspection and test being completed or within 90 days of commencement.
- 8 Electronic issuing of information, reports and drawings shall be provided in Microsoft Word, Excel, Amtech and AutoCAD format. Final to be agreed.

WORK OUTSIDE NORMAL WORKING HOURS

- 9 The Contractor will be required to provide an out-of-hours response service for emergency calls to return to sites tested in accordance with the particular specification. The contractor will be required to provide telephone numbers (both land line and mobile) for this purpose, which must remain for the duration of the contract (including any given extensions)

DAYWORKS

- 10 Where day work is authorised, the Contract Administrator shall be notified of the commencement and completion of the work, and the items of plant and workpeople concerned are to be solely engaged thereon and not employed upon any other work during progress of the day work.

FLUCTUATIONS

- 11 The tendered prices will apply for the period up to 31 March 2016. With effect from 1 April 2016 and at subsequent annual intervals, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institution of Chartered Surveyors for the third quarter immediately prior to the revision date and the third quarter previously published.

HEALTH AND SAFETY THE CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2007

- 12 Comply with the requirements of the Construction (Design and Management) Regulations 2007. The works required to be carried out under this term contract will be considered individually and in respect of orders to which notification is required, the Contractor will be the "Principal Contractor" under the Regulations and shall include for the costs arising therefrom."

ORDERING WORK

- 13 The Contractor will receive and accept orders only from the Electrical Maintenance Engineer or appropriate agreed representative. Any requests from any other party must be referred back to the engineer. Such orders shall be given in writing.
- 14 The contractor will be given an initial programme of works prior to commencement of the contract and an annual programme of works in April of each year for the following financial year (April-March). Unless otherwise dictated by the engineer the contractor will provide commencement and completion dates for the programme.
- 15 It is the Council's intention to place orders electronically for the duration of this contract, and will expect the Contractor to comply or promote any such procedures that may be determined between the parties.

CONTRACTOR TO ASCERTAIN SITE CONDITIONS

- 16 In the case of every instruction the Contractor shall be deemed to have made a thorough examination of the site/premises and to have satisfied himself as to the general site/premises conditions; means of access; working no claims will be admitted for any problems arising from any failure by the Contractor to satisfy himself on these matters.

- 17 Where the Contractor considers that the work required on site is at variance with an instruction he shall immediately inform the Contract Administrator who shall issue instructions.

BOND

- 18 The Contractor shall include for a Bond to provide for reimbursement of 10% of the Contract Amount (per annum) as Surety to secure the due performance of this Contract. This may be given by either an approved Banking or Insurance Company or by way of deposit with the Employer of an equivalent sum of money in which event such deposit will not be subject to the payment of interest to the contractor. The Contractor shall include for the provision of a Bond by either method (as detailed above) and shall include the amount in the tendered percentages. The Wolverhampton City Council, appointed Contract Administrator shall determine the level of the Bond to be set each and every year.

PARENT COMPANY GUARANTEE

- 19 Under the Employers Approved List Policy, companies which are subsidiaries of a parent company may be required to provide a performance guarantee from that parent company and all subsidiary companies. Such companies are required to include for the provision of a performance guarantee from the contractors parent company in the tendered percentages.

DIRECTOR'S PERSONAL GUARANTEE

- 20 Under the Employers Approved List Policy, where a private limited company has been accepted on to the Employer's Standing List of Contractors subject to the condition that they provide a director's personal guarantee, then their personal guarantee may be required for any contracts undertaken. Such companies are required to include for the provision of this guarantee in the tendered percentages.

CRIMINAL RECORDS CHECKS

- 21 It is a condition of this contract that the Contractor (at his own cost) will ensure that all operatives and sub-contractors are checked or are in the process of being checked (at commencement of the contact with the Disclosure and Baring Service (DBS) formerly the Criminal Records Bureau (CRB) using their 'Enhanced Disclosure Service' in accordance with the DBS Code of Practice. This will include details of cautions, reprimands, final warnings and convictions, including 'spent convictions' under the terms of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2001.

Checks to be renewed every 3 years at Contractor's own cost.

Where operatives may have unsupervised access to children, in particular within Education and Social Services buildings, in addition to the Disclosure and Baring Service checks, the contractor must have

rigorous checking procedures in place and substantial documentary evidence to prove that the operatives have been correctly identified by the Contractor as being the persons who have been checked or are in the process of being checked by the Disclosure and Baring Service, and are in possession of an I.D. card which confirms who they are and shows a current photograph of them.

The Contractor is responsible for ensuring that the named person, is the person who is sent to the site to commence work.

The Contractor will provide a list within one month of such a request by the Contract Administrator of all employees employed on this contract (including sub-contract workers) indicating:-

- the name of the employee;
- the date of the check or when application was made;
- certificate number;
- what process you undertook to determine their suitability to work on this contract, should the disclosure have highlighted any previous convictions.

CONSTRUCTION TRAINING AND WORK EXPERIENCE PLACEMENTS

22 It is the intention of the Council to develop construction training opportunities in secondary schools. The strategy and mechanism for delivering these are currently being developed. However, it is anticipated that there will be requirements to provide:-

- Work experience for 1 or 2 weeks for year 9/10 pupils and above.
- A programme of construction-based work experience linked with study towards a relevant GNVQ at school or college.

By entering a tender, Contractors will be deemed to have demonstrated a commitment to provide such training opportunities through the contract. The cost to the contract of providing for these will be included in the tendered percentage adjustments.

The ability and experience of the Contractor in delivering such training opportunities will be assessed as part of the quality assessment process in awarding the contract.

ELECTROTECHNICAL CERTIFICATION SCHEME

23 The Contractor will be required to have all operational staff and operatives certified by the Electrotechnical Certification Scheme (ECS), to a suitable level as indicated by the ECS, subject to their status, i.e. Director, Contract Manager, Trades Person, Delivery Driver.

The Contractor is to provide a photocopy of all card holders employed on this contract (including any sub-contract workers) within one month of such a request by the Contract Administrator.

The Contractor is to also provide dates of when cards are expected to be obtained for all other employees who will be engaged on this contract within one month of the request.

All staff to have obtained certification within six months of contract commencement.

CONTRACT MANAGER

- 24 The Contractor shall ensure that at all times during the Contract period a Contract Manager is appointed and empowered to act on behalf of the Contractor and available to the Contract Administrator in person at all times during which the Services are to be provided.
- 25 The Contractor shall no later than 14 days prior to the commencement date of the contract give written notice to the Contract Administrator of the identity of the person proposed to be appointed as the Contract Manager and any persons to be approved as deputies to the Contract Manager and shall forthwith give notice of any subsequent proposed appointments. Any person proposed to be appointed as aforesaid shall first be approved in writing by the Contract Administrator who shall have an absolute discretion to refuse such approval without being required to give reasons therefore.
- 26 The Contract Manager shall be the authorised representative of the Contractor for all purposes connected to this Contract. Any notice information instruction or other communication given or made to the Contract Manager or any appointed deputy shall be deemed to have been given or made to the Contractor.

- 27 The Contract Manager shall attend such meetings of the Council or any of its committees or sub-committees or with members of the public at such times as the Contract Administrator shall require for the purpose of explaining the Services or for responding to complaints about the provision of the Services. The cost of any such attendance shall be borne by the Contractor.
- 28 The Contract Manager shall consult the Contract Administrator and such of the Contract Administrator's staff as may be specified in writing by the Contract Administrator as often as may reasonably be necessary for the efficient performance of the services in accordance with this contract, and shall provide statistical information and records as requested by the Contract Administrator.
- 29 The Contract Manager shall inform the Contract Administrator immediately and in writing of any activity or omission on the part of the Council which prevents or hinders or may prevent or hinder the Contractor from meeting its contractual obligations.
- 30 The Council shall ensure that the Contract Administrator shall be available for consultation with the Contract Manager/Contractor at all times during which the Services are to be provided.
- 31 The Contract Manager will be required to comply with any reasonable instruction from the Contract Administrator to exclude from the Site any person employed thereon.
- 32 If within 7 days after receipt of a written notice from the Contract Administrator requiring compliance with an instruction the Contractor does not comply therewith then the Council may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to such instruction and all costs incurred thereby may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor by the Council as a debt.

QUALITY CONTROL

- 33 It shall be the duty of the Contractor well and properly to provide the Services to a standard which is in all respects to the satisfaction of the Council and to comply in all respects with the Specification and these Conditions. The Contractor recognises that the Council will monitor the performance by the Contractor of the Services and the Contractor will not obstruct or in any way interfere with such monitoring.
- 34 The Contractor shall throughout the Contract Period institute and maintain a properly documented system of quality control designed to ensure that the Services are provided at all times and in all respects in accordance with the Specification and these Conditions.

- 35 Such quality control system shall (without prejudice be the generality of these Contract documents).
- (i) include daily supervision and the carrying out of regular inspections by or on behalf of the Contract Manager.
 - (ii) ensure the recording in records kept for the purpose of any complaints received in connection with the provision or failure to provide the Services whether received orally or in writing and whether from members of the public or others and of the action taken by the Contractor in respect of each such complaint.
- 36 The system shall be operated by the Contract Manager on behalf of the Contractor and shall be open to inspection at any time without notice by the Contract Administrator. Any reasonable recommendations made by the Contract Administrator for the improvement of the system shall be forthwith implemented by the Contractor at the Contractor's own expense.
- 37 The requirement for the provision of a quality control system shall be in addition to and not in substitution for any other rights open to the Council under this Contract.
- 38 For the purpose of ensuring compliance with this clause the Contract Administrator may at any time interview any of the Contractor's employees engaged on the services and all information requested by the Contract Administrator shall be made available forthwith.
- 39 Where an appropriate British Standard or British Standard Code of Practice issued by the British Standards Institution or other European standard is current all goods used or supplied and all workmanship will be a minimum requirement in accordance with that standard save that where any higher standard is specified by this Contract then that higher standard shall prevail.

EQUALITY & CUSTOMER CARE

- 40 The Contractor shall deal with customers' complaints in a manner consistent with the Council's guidelines for handling customers complaints, which can be accessed via the following link:

<http://www.wolverhampton.gov.uk/search?q=contacts+complaints>

CONTRACT DATA

- 41 The Contractor will be responsible for providing data to the Contract Administrator, on a quarterly basis detailing:-

All work completed within agreed programme;
All work completed beyond their timescales, including reasons for late completion;
All outstanding works;

All invoices that have been submitted within 56 days of order site inspection completion ;

All outstanding invoices, including reasons for non-submission;

Any outstanding payments (by WCC) for completed works;

Any other information required by Contract Administrator/Contractor.

The information provided shall be produced in 'hard' copy spreadsheet format, ready for discussion at meetings, and also in electronic format to be agreed by the Contract Administrator.

SECURITY

- 42 The Contractor shall ensure that the Contractor's employees maintain the security of any premises covered by this Contract.
- 43 The Contractor shall comply with the Council's security regulations including any made for the purpose of the Data Protection Act 1984. In particular but without prejudice to the generality of the foregoing the Contractor shall not read and shall prohibit the Contractor's employees from reading any documents however produced or the information displayed on any screen or listen to the contents of any tape or electronically produced recording except that to which the Contractor or the Contractor's employees are required to have access in pursuance of the performance of the Services required by this Contract.
- 44 The Contractor shall hold access keys and operate any intruder alarms as required by the Contract Administrator. In such circumstances the Contractor shall be responsible for the security of any location upon which the Contractor is required by the Council to carry out any Services and shall ensure that such location is properly secured both whilst the services are being provided and on completion thereof. In the event of the Contractor's employees failing to properly operate the intruder alarms the Contractor shall reimburse the Council for any expenses arising as a result of such failure.
- 45 The Contractor shall issue security passes in such form as the Council may from time to time determine to any of the Contractor's employees who shall at any time have access to location(s) where security passes are required by the Council.
- 46 The Contractor shall be responsible for the safekeeping of any keys passes or other means of access provided to the Contractor by the Council and shall permit such keys passes and other means of access and other means of access to be given only to those of the Contractor's employees whose names and addresses have been previously given to the Council and then only to the extent required for the purposes of providing the services. In addition the Contractor shall ensure the Contract Administrator is informed immediately of the loss of any keys passes and other means of access and shall reimburse the Council any costs of replacement and for any reasonable security measures implemented as a result of such loss.

- 47 At the request of the Contract Administrator or on the termination of this Contract whichever is the earlier the Contractor shall return to the Council any keys passes and any other means of access issued under this Clause.

IDENTIFICATION

- 48 The Contractor shall supply to every Contractor's employee a photo-identity card of a type to be approved in writing by the Contract Administrator. The Contractor shall maintain and provide to the Contractor Administrator a list of all cards currently in use. Such identity cards shall be carried at all times by each employee when carrying out the Services and shall be produced for inspection at the request of any Officer of the Council. Immediately on ceasing to be engaged in carrying out the services that Contractor's employee's identity card shall be surrendered to the Contractor. The Contractor shall be responsible for ensuring that the identity card is immediately destroyed.
- 49 When communicating with any person the Contractor's employees shall disclose their identity and shall not give any misleading information which could reflect adversely on the Council.

QUALITY ASSESSMENT PLAN

- 50 The Council is committed to delivering high quality services through its contracts. Achieving quality requires a rigorous approach to tender evaluation. The Quality Assessment Plan is a crucial element to this tender evaluation procedure, it is geared to distinguishing the quality of a Contractor's bid.
- 51 The Quality Assessment Plan, when completed, should provide details of; how the Contractor will manage the contract; how the Contractor will deliver the outputs detailed in the specification; and how the Contractor will resource the contract.
- 52 The Quality Assessment Plan forms part of the contract documentation. The successful Contractor will be bound by the Quality Assessment Plan submission as 'part and parcel' of the contract. If a Quality Assessment Plan is not submitted with the tender documentation, the bid will not be considered.
- 53 The completed Quality Assessment Plan will be used to monitor the successful Contractor's performance against the detail provided in the plan.

PAYMENTS

- 54 Payments for work properly done and completed will be made against invoices submitted by the Contractor at the intervals set out in the contract.
- 55 Each invoice shall be a VAT invoice as defined in the Regulations.

- 56 Each invoice shall detail the work to which it relates giving measurements and identifying the Schedule items used for pricing. Where no item exists in the Schedule the works shall be sufficiently described to enable the Client to verify the rate submitted.
- 57 A schedule of sites is included with approximate square metrage of buildings for guidance. This is not to be used as a definitive list of works.
- 58 The Contractor will be required to accurately determine (at his own cost) the square metrage of the site and the costs claimed accordingly. The Contract Administrator can request attendance at the measure or request a re-measure for any site.
- 59 The Contractor will be required to submit with each invoice, details of work carried out in respect of each order, together with verification that the work has been completed, in a form incorporating the order number, date of work carried out, time spent on site and materials used.
- 60 The invoice must be typewritten and in accordance with the tendered prices.
- 61 Invoices are to be submitted within 56 days of order site inspection completion and must be accompanied by the service report, and each batch of invoices must be accompanied by a ledger which details:-
- Invoice numbers (in sequential order)
 - Council order number
 - Tax point date

The date invoices are received by the Council is deemed to be 'Day 1' for the purpose of payment periods, regardless of the Contractor's Tax Point Date.

The Council's will receive and process invoices and make payments electronically for the duration of this contract and will expect the Contractor to comply or promote any such procedures the Councils system is produced by Agresso Invoice's need to be sent to a special invoice handling service in Slough, marked in a particular way. Contracts can be set up to view orders and payment's through the system, via a specialist portal of their own account.

MEETINGS ETC

- 62 The Contractor shall allow for attendance at all meetings called by the Contract Administrator in connection with the progress of work under the contract. Typically, informal monthly progress meetings shall be included together with formal minuted meetings on a half yearly basis unless increased frequency is deemed to be necessary. Minutes of meetings shall be recorded and issued by the Contractor.

ACCESS TO PROPERTIES

- 63 All Contractor's personnel shall report to the person in charge of the premises concerned or in the case of work in a school to the Head Teacher or Secretary when arriving on the premises and before commencing any work. Likewise at the end of each working day and on completion of the work. At all premises the Contractor will be required to sign a visitors book showing times of arrival and departure.

WORK IN CIVIC BUILDINGS

- 64 Due to the specific nature of certain buildings, it is essential that designated personnel be available to carry out the work. Contractors may be subject to a Formal Induction prior to working. The Contract Administrator will ensure that the Contract Manager is inducted, who will then be responsible for his staff/sub-contractors. Failure to comply will result in refused access.

CONTRACTOR'S CONDUCT ON SITE

- 65 Arrangements must be made and agreed with the staff of the premises concerned for access to areas or rooms in use during normal working hours, and every effort must be made to cause as little inconvenience and disruption to normal day to day activities as possible. The Contractor shall provide all employees with a means of identification showing the Company's name, a photograph of the holder, the holder's name and position in the company and a number to ring to verify the holder's credentials.
- 66 The Contractor's representative shall on arrival on site obtain details of any local rules or formal induction processes which may be in operation on the premises in respect of access, asbestos, evacuation, noise, smoking or other matters and these shall be strictly observed at all times.

USE OF PROPERTIES

- 67 The Contractor is prohibited from using any property for any purpose other than the execution of the works.
- 68 The Contractor is generally prohibited from storing materials. He must clear away all rubbish etc and leave in a tidy and orderly condition on a daily basis unless otherwise agreed by the Contract Administrator.

PEDESTRIAN ACCESS

- 69 The Contractor shall where necessary maintain a solid pedestrian access for occupants and all users of the property.

PROTECTION OF OCCUPIER'S FURNITURE AND PERSONAL EFFECTS

- 70 The Contractor shall protect with dust sheets or other approved means the occupier's floors, furniture and fittings during the execution of the works. The Contractor will be responsible for any damage arising from inadequate protection.

MAINTENANCE OF ESSENTIAL SERVICES

- 71 The Contractor shall where necessary maintain at all times gas, water and electrical supplies within the property including the complete lighting installation, electrical and hot water storage installation. The Contractor shall programme his work so that adequate facilities are always available.
- 72 The Contractor shall allow for all temporary connections to meters and pay all additional charges required by Statutory Undertakers.

EMERGENCY TELEPHONE SERVICE

- 73 The Contractor shall provide the Contract Administrator with the names and telephone numbers of employees of the firm who can be contacted by him and his representative in the event of an emergency arising out of the carrying out of the works occurring outside normal working hours.

ADVERTISING RIGHTS

- 74 The whole right of advertising upon or adjacent to any property or on any poles, hoarding or apparatus whatsoever forming part of or incidental to the Works is reserved to the Council.

ASBESTOS

- 75 All properties have been issued with an asbestos survey for which the Contractor is to ensure they are familiar with prior to commencement of the survey.

In the event of materials suspected of containing asbestos being found on the site the Contractor shall

- (a) use his best endeavours not to disturb the materials and shall cease work if and insofar as the continuance of work would put operatives at risk;
- (b) take all steps which may be necessary to preserve the materials in the exact position and condition in which found;

- (c) inform the Contract Administrator of the discovery and precise location; and
- (d) comply with any instructions by the Contract Administrator in regard to what is to be done concerning its removal.

INTERFERENCE WITH ADJACENT OCCUPIERS

- 76 The Contractor shall carry out the Works without interference to adjacent occupiers and shall keep the amount of noise to a minimum near buildings.

GENERAL ITEMS

INVOICES

- 77 One invoice shall be issued for each site or building tested and must include all variation costs associated with that site.

Multiple sites may be included on one invoice but must include all variation costs associated with each site on the same invoice. Where multiple sites are included on the same invoice the Contractor is advised that any error to any site will place the whole invoice in query and will delay payment of the whole invoice not just the particular site in error.

For the entire duration of the contract, the Contractor will be required to submit 100% of invoices, including all necessary documents, drawings and certificates, within 56 days of site inspection completion.

NON-PERFORMANCE OF CONTRACTOR

- 78 The services shall be subject to inspection at all times by the Contract Administrator and in the event of the Contractor failing to maintain the specified standard or failing to carry out any or any part of the Service or performing a prohibited action as identified within this Contract the Council shall (without prejudice to any other remedy available) be entitled to:-
- (a) Issue a Rectification Notice requiring the Contractor to establish or re-establish the specified standard or have operations executed or re-executed by the Contractor within a period of time which shall be determined by the Contract Administrator at no additional cost to the Council.
 - (b) Issue a Rectification Notice requiring the Contractor to cease or refrain from doing any acts prohibited by the Contract.
 - (c) In the event of the Contractor failing to rectify works in accordance with the instructions detailed in the Rectification Notice or where no rectification is possible in the opinion of the Contract Administrator or where the Contractor persistently fails in the delivery of the Service and is in receipt of 3 rectification

notices in respect of the same or similar failure the Council may (without prejudice to any other right or remedy available to it) do any one or more of the following:

- (i) Deduct from any payment to the Contractor such sum as the Contract Administrator believes will reflect the payment had the standard been maintained or the Services provided. The cost to be deducted will also include any costs which in the opinion of the Contract Administrator is associated with the Contractor's failure.
- (ii) Have such work carried out by other persons and recover from the Contractor the cost incurred by the Council.
- (iii) Terminate the Contract by giving the Contractor not less than four weeks notice in writing either wholly or in respect of the Services to which the default relates.
- (iv) Recover any costs incurred as a direct result of the Contractor's failure.

For the avoidance of doubt any reference to cost in sub-clause (i) to (iv) above shall include the Council's administrative costs.

- (d) Recover any costs incurred which shall include the Council's administrative costs. Such costs will be notified to the Contractor.
- (e) The Contract Administrator may vary any or all of the categories of failure/default or add to the same by notice in writing given to the Contractor at any time and on the service of such notice the provisions of the Contract shall apply in all respects.
- (f) In the event of such breach as aforesaid including any breach resulting from the issue of default points the Council may (without prejudice to any other right or remedy available to it) do any one or more of the following
 - (i) without determining the Contract in whole or in part itself thereafter provide or procure the provision of such part of the Services as are affected by the notices until such time as the Contractor shall have demonstrated to the satisfaction of the Contract Administrator that such part of the Services can be once more provided by the Contractor in accordance with this Contract.
 - (ii) without determining the whole of this Contract determine the Contract in respect of that part of the Services affected by the notices and thereafter itself provide or procure a third party to provide such part of the Services.
 - (iii) determine the Contract in full.

- (g) For the avoidance of doubt the remedies identified in sub-clauses (a) to (e) hereof may be exercised successively in respect of any one or more defaults by the Contractor.

GENERAL OBLIGATIONS

PLANT, TOOLS AND VEHICLES

- 79 Allow for providing everything necessary for the proper execution of the Works including all requisite plant, vehicles, ladders, trestles, tools, and other implements required for the expeditious carrying out of the Works in proper sequence.

CONTRACT ADMINISTRATION

- 80 The Contractor shall provide adequate site and contract administration to ensure the proper execution of all orders.

TRANSPORT FOR WORKPEOPLE

- 81 Provide transport for workpeople.

TEMPORARY TELEPHONE FOR THE USE OF THE CONTRACTOR

- 82 The Contractor shall provide a telephone for his own use and pay all charges in connection therewith.

TRAFFIC REGULATIONS

- 83 Allow for complying with all traffic regulations.

SAFETY, HEALTH AND WELFARE OF WORKPEOPLE

- 84 Allow for complying with all current statutory regulations and the Code of Welfare Conditions of the National Joint Council of the Building Industry regarding safety, Health and Welfare.

DISBURSEMENT ARISING FROM THE EMPLOYMENT OF WORKPEOPLE

- 85 Allow for all disbursements arising from the employment of Workpeople including travelling time, travelling expenses, guaranteed time, subsistence, Annual and Public Holidays and other allowances and all obligations under the current Working Rule Agreement, all and any payments to be made under the National Insurance Acts and any necessary overtime working and incentives.

TEMPORARY FENCING, HOARDINGS, SCREENS, FANS, PLANKED FOOTWAYS, GUARDRAILS, GANTRIES AND SIMILAR ITEMS

- 86 Provide all temporary fencing, hoarding, screens, fans, planked footways, guardrails, gantries and similar items as may be necessary for

protecting the public, for proper execution of the Works and for meeting the requirements of the Local Authority. Special precaution must be taken in Schools to prevent injury to children during the carrying out of work.

CONTROL OF NOISE, POLLUTION AND ALL OTHER STATUTORY OBLIGATIONS

- 87 Allow for complying with all regulations controlling noise and pollution and all other Statutory Obligations. As most of the properties will be occupied during working hours, the use of transistor radios/cassette players etc will be strictly prohibited, and disruption of the normal procedures of the occupants must be kept to an absolute minimum.

SAFETY OF OCCUPANTS

- 88 In carrying out any work under this contract due regard must be given at all times for the safety and well being of staff, pupils and visitors when moving materials and plant around the site and keeping noise to a minimum.

STANDARD ELECTRICAL REQUIREMENTS

PART B STANDARD ELECTRICAL SPECIFICATION

STANDARD ELECTRICAL REQUIREMENTS

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STANDARD ELECTRICAL REQUIREMENTS

V01 General

100 INTRODUCTION

This Standard Specification deals with the design, material and workmanship in connection with the electrical installation detailed in the clauses and schedules of this Standard Specification, the Particular Specification which follows and the attached drawings.

200 REGULATIONS AND STANDARDS

210 REGULATIONS

The whole of the work shall be carried out to the entire satisfaction of the Contract Administrator and in accordance with the following:-

- (i) The 17th edition of the Regulations for Electrical Installations prepared by the Institution of Electrical Engineers, BS7671:2008 with amendments current at the date of Tender.
- (ii) The rules, regulations and requirements of the local electricity supply, distribution and metering companies.
- (iii) The rules, regulations and requirements of the Joint Industry Board for the Electrical Contracting Industry.
- (iv) Statutory Instrument 1989 No. 635 Health and Safety: The Electricity at Work Regulations, 1989.
- (v) Electricity Safety, Quality and Continuity Regulations (ESQCR) 2002.
- (vi) All other relevant statutory regulations.

220 HEALTH AND SAFETY AT WORK

Compliance with the Health and Safety at Work Act 1974 shall be ensured. Prior to starting the work, a copy of the Contractor's Safety Policy Statement and details of his arrangements for securing compliance with the terms of the statement shall be supplied to the Contract Administrator

230 BRITISH STANDARDS

- All accessories, equipment and materials used to complete the works shall be in full compliance with the appropriate British Standard Specifications.
- The installations shall be carried out fully in accordance with the relevant Codes of Practice issued by the British Standards Institution

STANDARD ELECTRICAL REQUIREMENTS

300 MATERIAL AND EQUIPMENT

- All materials and equipment shall be new and unused, and suitable for their intended purpose, unless otherwise noted in this specification or on the drawings.
- The specification and drawings shall be read together, all quantities and items of equipment to be as detailed on the drawings and in the specification.
- The Contractor shall be responsible for taking off his own quantities from the drawings and specification.

310 SAMPLES

Submit samples as required of proposed materials and equipment for approval before commencement of the works. Label each sample with name and catalogue number where appropriate.

320 REMOVAL OF REDUNDANT EQUIPMENT

All items of equipment and cabling and wiring made redundant by the new works shall be removed and disposed of unless otherwise described in the particular specification or shown on the drawings. The contractor shall ensure that all fluorescent tubes, together with any other hazardous waste are safely disposed of in full accordance with the Environmental Protection Act.

400 BUILDER'S WORK

All necessary holes, chases and cut-outs for accommodating the wiring and accessories as specified shall be provided. Any other builder's work items are referred to in the particular specification or shown on the drawings.

500 INSPECTION OF THE SITE

A site inspection shall be deemed to have been made prior to submitting the tender with regard to the proposed electrical works and no claim will be allowed arising from any reason which could have been foreseen from a site visit. Visits shall be made by prior arrangement with the Contract Administrator or as otherwise directed.

600 DRAWINGS

- If necessary deviations from the drawings arise, the Contractor shall submit details of the proposed modifications and obtain the approval of the Contract Administrator before such modifications shall be executed.
- The Contractor shall arrange to keep on site a full set of drawings, which must be kept up to date, showing the progress of the work.
- The Contractor shall keep a concise record, as work proceeds, of any part of the installation that is not in accordance with the original drawings.

STANDARD ELECTRICAL REQUIREMENTS

700 FINALISED POSITION OF POINTS

- The Contractor shall note that the positions of all points and equipment shown on the drawings are approximate only and are for guidance in preparing his Tender.
- The Contractor shall include in his Tender for the movement of all points and equipment up to a radius of 1000mm from the positions shown on the drawings.
- The Contractor for the approval of the Contract Administrator shall indicate the final positions of all wiring points and equipment and the routes and arrangement of all cables and conduits etc., on site. These must be agreed before installation commences.
- The Contractor shall note that it will be his responsibility to inquire and check the final position of all wiring points and equipment and he will be held responsible for any alterations made necessary due to non-compliance with the requirements of this clause.

800 INSPECTION OF INSTALLATIONS

The Contractor shall afford every facility to the Contract Administrator to examine the works.

Should any doubt exist as to the quality of materials used or the workmanship, the Contractor is to open up and lay bare any part of the work, either during progress or on completion for such examination. Any work found to be unsatisfactory is to be taken out and replaced to the satisfaction of the Contract Administrator. The cost of exposing the work, remedial work and making good shall be borne by the Contractor.

910 INSTRUCTION IN THE USE OF INSTALLATIONS

On completion of the installation, the Contractor shall give to the employees in charge of the installation detailed instructions in its operation and control.

920 INSTRUCTION MANUALS

The Contractor shall provide two copies in A4 binders or lever arch files as appropriate of instruction manuals for the installation together with ALL information burned onto a CD-ROM, including all manufacturers literature/instructions on equipment, systems and fittings provided. Also included in both the manuals & CD shall be final copies of the As fitted drawings as reviewed by the Contract Administrator and copies of all completion and test certificates for the installation.

STANDARD ELECTRICAL REQUIREMENTS

930 AS FITTED DRAWINGS

Within one month of the date of Practical Completion the Contractor shall prepare and submit an electronic "Electrical layout drawings", in an AutoCAD format, based upon the electronic drawings issued to the contractor by Wolverhampton City Council. These drawings to show the following information:-

- All Distribution boards and switchgear as installed, with labels and description.
- All building areas, room numbers and names, used upon the test results provided. This to be audited by the testing engineer to ensure it is correct.
- Metering points and mains service incoming points.
- All Main bonding points,

In addition the Contractor shall provide circuit information on each and every circuit on site in a format suitable for importation into Hevacomp Connect Software. This can be used to provide both the labels for each distribution unit and an overall schematic site layout.

Until the Contract Administrator has approved these drawings the contract will not be deemed complete. The contractor shall make due allowance in the tender for the preparation of these drawings.

940 COMMISSIONING

The Contractor shall include in his Tender for attendance during the commissioning and testing of the completed installation. For tendering purposes the commissioning shall be deemed to take place during normal working hours.

950 ELECTRICAL INSTALLATION CERTIFICATE

Following the inspection and testing of the installation and any corrective action found necessary, the Contractor shall issue a Electrical Installation Certificate or Minor Electrical Installation Works Certificate as appropriate, all as prescribed in the Institution of Electrical Engineers Regulations, Appendix 6 and published by the National Inspection Council for Electrical Installation Contracting (NICEIC) or Electrical Contractors Association (ECA).

The contractor, who carries out the electrical works shall test the installations and shall be full ECA or NICEIC enrolled members.

Issue separate test and completion certificates for the fire alarm, emergency lighting and security systems installations.

STANDARD ELECTRICAL REQUIREMENTS

V31 Low voltage switchgear

620A DISTRIBUTION BOARDS AND SWITCHGEAR - FIXINGS

Distribution boards and switchgear where not fixed to an angle iron frame shall be fixed with rag bolts, securely grouted in.

970A DISTRIBUTION BOARDS - IDENTIFICATION

For final circuit distribution boards, the Contractor shall ensure that each way is clearly identified and numbered to correspond to the relevant distribution board schedule. This can be a typed chart, exported from a computer software system, protected by means of a rigid transparent plastic cover mounted on the inside of the front cover of the relevant distribution board or, where this is not possible, directly adjacent to the relevant distribution board.

The chart shall include the following information:-

- a) The origin of the supply cable and the designation of its isolating switch.
- b) The function or duty of each circuit against the respective circuit number and type of wiring.
- c) The rating of each fuse link or circuit breaker and type.
- d) The size of the sub-main or sub-circuit cable and CPC
- e) The phase(s) to which the unit is connected.
- f) Earth fault loop impedance and short circuit level at the distribution board and final sub-circuits.
- g) Maximum permissible earth fault loop impedance and disconnection time.
- h) Method of compliance with IEE Wiring Regulations in relation to indirect contact
- i) Any circuit equipment vulnerable to a typical electrical test.
- j) Spare ways shall be left blank.

STANDARD ELECTRICAL REQUIREMENTS

V32 Low voltage cabling

310 CABLES GENERALLY

- Standard: To BS 7671.
- Approval: British Approvals Service for Cables (BASEC) certified.
- Proposed selection of low voltage cables: Submit drawings, technical information, calculations and manufacturer's literature.
- Conductor sizes (minimum):
 - Sub main cables: 6 mm².
 - Lighting final circuits: 1.5 mm².
 - Power final circuits: 2.5 mm².
- Spare capacity (percentage of current carrying capacity): 25%.
- Cable sizes not stated: Submit proposals and calculations.

312 FLEXIBLE CORDS

No conductor size smaller than 0.75mm²

314 MULTICORE CABLES

Reduced neutral conductors shall not be permitted unless specified

317 CABLES AND CONDUCTORS IDENTIFICATION

- Identification: Throughout cable length.
- Colour identification of cores: Cable of distinctive colour shall be used up to final distribution boards, being brown, black or grey, relative to phase connection. From final distribution board onwards brown cable only shall be used for all live feeds excepting in 3 and 4 core composite cables where the phase colouring shall be maintained. Neutrals shall be blue throughout.
Cable colours on extra low voltage circuits shall be readily distinguished from that of low voltage circuits and in accordance with BS7671.
- Phase rotation: Identify with the coding L1, L2 and L3.

STANDARD ELECTRICAL REQUIREMENTS

410A MINERAL INSULATED CABLES

- Standard: To BS EN 60702-1.
- Cables shall be heavy-duty 750V grade, except for fire alarm circuits, and shall be of the size and type as indicated in the particular specification and associated drawings.
- In all circumstances cables installed in the ground, floor ducts, damp situations and pipes, shall be thermoplastic (PVC) sheathed.
- Where used on fire alarm circuits all cables shall be thermoplastic (PVC) covered

610A CABLE INSTALLATION GENERALLY

- Standard: To BS 7671.
- Timing: Do not start internal cabling until building enclosure provides permanently dry conditions; see that all conduits and boxes in the vicinity are rendered watertight.
- Preparation: Store cables above 5°C for 24 hours before installation.
- Installation temperature (minimum): 5°C.
- Cables: Install in one length.
- Cable pulling: Do not overstress. Prevent kinks and twisting of the cable.
 - Installation method: Submit proposals.
- Cables passing through walls: Sleeve with conduit or pipeduct. Bush at both ends.
- Cables surrounded or covered by insulation: Derate.
- Jointing: At equipment and terminal fittings only. All cables shall be supplied in one length; no through joints shall be made unless the written permission of the Contract Administrator has been obtained.
- The loop-in principle shall be used throughout; joints only being made at main switches, distribution boards, switches, ceiling point boxes, fixed apparatus, etc.

STANDARD ELECTRICAL REQUIREMENTS

615 THERMOPLASTIC (PVC) INSULATED AND SHEATHED CABLES, INSTALLATION

- Cables shall be of the size and type as indicated in this specification and associated drawings.
- All cables shall be run directly off cable reels and not taken from loose coils.
- Wiring to each electrical point shall terminate within a bushed metal box complete with fixed connectors where applicable e.g. lighting points.
- The circuit protective conductor of the cable shall terminate in the earth terminal of the accessory or equipment and at the earth terminal in the point or switch box for lighting fittings.
- Unless specified elsewhere cables shall be concealed as far as possible within the fabric of the building by being run within the ceiling space, between the leaves of partitions or behind the inner cladding of external walls.
- Unless specified elsewhere where cables are run under floors and in roof spaces they shall if run at right angles to the joists be passed through holes drilled in the neutral axes of the joists where possible but in no case shall the hole be less than 50mm from the top of any joist.
- Unless specified elsewhere where cables are run parallel to the joists in roof spaces or in floors they shall be clipped to the sides of the joists not less than 50mm from the top or bottom of the joists.
- The cables shall be supported with PVC moulded clips or saddles, to the Contract Administrator's approval fixed at adequate intervals to prevent any strain on the cables. Saddles and tape shall be secured with suitable brass screws.
- Moulded clips will only be permitted when fixing to timberwork.
- In addition, the fixings shall be provided immediately adjacent to each ceiling rose, switch or socket box, etc.
- Where cables enter or leave boxes, the cable sheath shall be protected by rubber grommets or bushes for flush installations and via a rubber packed gland for surface installations.
- Where cables pass through walls they shall be protected by steel conduit, the conduit shall extend clear of the wall and be fitted with a brass ring bush at each end.
- Unless specified elsewhere cables sunk in plastered walls etc., shall be protected by oval plastic conduit fitted to the grip entry box or terminating 10mm within the box. The conduits shall be securely fixed prior to plastering.

STANDARD ELECTRICAL REQUIREMENTS

- Where cables are subject to damage or abuse they shall be protected up to a height of 1350mm by steel conduit suitably bushed unless otherwise specified, e.g. wood or plastic/metal capping.
 - On installations where wiring is concealed in the ceiling spaces and drops to accessories are on the surface, these shall be protected by heavy gauge steel or high impact PVC conduit from within the ceiling cavity to the accessory, a ring bush being fitted to the conduit end within the ceiling cavity.
 - Unless specified elsewhere cables rising to or from cubicle panels, fuseboards etc., shall be concealed within partitions and enter the rear of the fuseboards etc., or if installed on the surface shall be protected by vertical trunking or conduits which shall protrude at least 80mm into the floor or ceiling space. The ends of conduits shall be suitably bushed and the ends of trunking drilled to receive grommets for the entry of thermoplastic (PVC) sheathed cables.
- 617 THERMOPLASTIC (PVC) SINGLE INSULATED CONDUIT WIRING CABLES- INSTALLATION
- Cables shall be of the size and type as indicated in this Specification and associated drawings and shall be enclosed in conduit and/or trunking throughout their entire length.
 - Final circuit wiring shall not be run in the same conduit as mains or distribution circuit wiring. Phase and neutral conductors forming the same circuit shall always be drawn into the same trunking or conduit.
 - All cables shall be run directly off cable reels and not taken from loose coils.
- 619 PLIABLE _SOFT SKIN_ FIRE RESISTING CABLES/LSOH LOW SMOKE, ZERO HALOGEN CABLES
- The installation procedure for thermoplastic (PVC) insulated and sheathed cables shall be observed in so far as this would apply to pliable "soft skin" fire resisting cables and low smoke zero halogen (LSOH) cables.
 - Cable fixings and terminations shall be as the manufacturer's recommendations

STANDARD ELECTRICAL REQUIREMENTS

620A CABLE ROUTES

- Cables generally: Conceal wherever possible.
 - Concealed cable runs to wall accessories: Run vertically from the accessory.
- Exposed cable runs: Submit proposals.
- Distance from other services running parallel: 150 mm minimum.
 - Heating pipes: Position cables below.
- Cable routes shall be carefully planned such that cables do not have contact with gas pipes, hot water pipes, heating units or any heat source liable to damage the cables or affect its current rating.
- Unless otherwise stated cables shall not be run in heating ducts or follow the routes of hot water pipes.
- It shall be the Contractors responsibility to establish routes and positions of hot water pipes, heating apparatus or other heat sources.
- All runs shall be made straight either parallel with or at right angles to the sides of the building. All risers and drops shall be vertical.

690 CABLE INSTALLATION - UNDERGROUND

- Where cables are run in the ground the Contractor shall properly mark out the cable routes.
- The Contractor shall provide vitrified clay or corrugated high density black polythene ducts for cables under roads and crossings and these shall be laid with a minimum cover of 600mm.
- A heavy gauge polythene marker tape shall be laid above the cables at a depth of 230mm below the finished ground level. This shall be of "Heptape" manufacture or equal and be provided and laid by the Contractor.
- Where cables are run under planted areas they shall be protected with interlocking cable covers of an approved pattern with impact requirements to British Standard BS 2484.
- The Contractor shall install cables to the following minimum depths unless specified elsewhere laid on an 80mm bed of soft sand without dragging and then cover with a further 80mm of soft sand.

• HV Cables	1000mm
• LV and ELV Cables	600mm

STANDARD ELECTRICAL REQUIREMENTS

The following spaces between cables and other services shall apply:

- HV to LV Cables, ELV Cables, Gas and Water Mains 300mm
 - LV to ELV Cables 500mm
 - LV and ELV Cables to Gas and Water Mains 230mm
 - HV, LV, and ELV Cables to Telephone Cables 460mm
- Cables shall not be laid in ashes, organic refuse or other such materials likely to cause damage. Where such conditions are encountered the method of laying the cables shall be agreed with the Contract Administrator.
 - Where cables rise out of the ground and are fixed to external walls or structures, they shall be protected from mechanical damage by heavy gauge galvanized steel capping fixed to the wall or structure to a height of 1800mm.

710A CABLES IN DUCTS

- Where cables are run in accessible ducts, they shall be laid neatly on the duct floor, or when this is not possible shall be fixed to the duct wall with proprietary cable cleats sized and spaced in accordance with the manufacturer's recommendations.

730A INSTALLING MINERAL INSULATED COPPER SHEATHED CABLES

- Installation: In accordance with BS 6207-3.
- Bending: Do not corrugate sheath. Straighten and dress cables neatly.
- Moisture damage to the insulation: Prevent.
- Temporary seals: Provide for cables when cut.
- Cables chased into walls: Terminate cabling within ceiling void or another accessible position.
 - Containment for cable tails: Submit proposals.
- Fastening to fabric:
 - Bare cables: Bare copper P-clips.
 - Sheathed cables: LSZH covered copper P-clips.
- Testing: Test each length immediately after fastening. Repeat test 24 _ 48 h later.
- The whole of the installation shall be carried out with the tools recommended by, and in accordance with the instructions of, the appropriate manufacturer. Unless otherwise specified, cables shall be terminated with approved medium temperature type seals of the screw-on pattern, complete with the correct sized gland, and the tails shall be insulated with PTFE sleeving of the appropriate colour.

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- Glands shall be tightened to form a permanent and effective earth continuity connection, and when connected into clearance holes shall be fitted with a compression washer and lock nut. All glands shall be complete with PVC shrouds.
- The Contractor shall not install MICS cable in floor slabs, or in floor screeds without first obtaining the permission of the Contract Administrator.
- Cables without PVC sheaths shall be supported by means of heavy gauge copper saddles and spacing bars of the type recommended by the manufacturers. For PVC sheathed cable, saddles etc., shall be PVC covered. Brass screws shall be used for the fixing of all saddles.
- All fixings shall be identical in size and composition in order to preserve a tidy appearance in the finished installation.
- Where run on the surface cables shall be dressed to remove all irregularities and to follow the contour of the surface so as to provide a neat inconspicuous installation.
- Where MICS cables are required to terminate at motor terminal boxes, or any other equipment where some degree of movement is required, or where the termination may be subjected to vibration they shall be formed into a loop adjacent to the termination. The radius of the loop shall be sufficient to permit belt tensioning and other similar adjustment.
- Where cable is installed and prior to the ends being sealed the insulation resistance shall be taken which should be in excess of 100 MEGOHMS
- The proposed cable runs shall be submitted for the Contract Administrator's approval before the installation begins.

740A INSTALLING ARMOURED CABLES

- Galvanized steel guards: Provide where cables are vulnerable to mechanical damage.
- Earthing: Bond armour to equipment and main earthing system.
- Connections to apparatus: Moisture proof, sealed glands and shrouds.
- Cables shall be of the size and type as indicated in this specification and associated drawings.
- Each cable shall be terminated in an approved compression type gland comprising cone grip armoured clamp and outer seal, which shall be adequately bonded to the associated equipment. A PVC shroud shall be fitted to each gland.
- All terminations shall be carried out in accordance with the appropriate manufacturers instructions. Multiple cable runs shall be installed on

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cable trays or special hangers. Single cable shall be cleated direct to walls and undersides of floor/roof decks.

- The type of cleat and method of attachment to the structure shall be subject to approval beforehand by the Contract Administrator. Cleats shall be spaced at intervals recommended by the cable manufacturers as being adequate to prevent sag and strain.
- At each end of a main or distribution circuit cable a non- destructible label is to be installed indicating the number of cores, phase, conductor size and location of the other end.

760A CABLE LUGS

- Where cable lugs, terminals or sweating sockets are used, they must be of the correct size to suit the cable to which they are to connect. The bore of the sockets etc., must be of sufficient size to adequately contain all the strands of the cable. The requirements of British Standard BS 91 shall be followed.

V40 Small power systems

640 FINAL CONNECTIONS

- FINAL CONNECTIONS
- Equipment requiring final connections:
- Provide wiring to equipment as specified in the particular specification and/or as shown on the drawings.
- Final connection to equipment with a heating element shall be by HOFR flexible cord with white sheath.
- Length of final connection: Sufficient to allow for equipment cleaning, maintenance and removal.

V50 General lighting systems

610A INSTALLING GENERAL LIGHTING SYSTEMS

- Standard: To BS 7671.
- Provide any lighting installation as shown on the drawing with luminaires as described in the lighting fitting schedule.
- Switching arrangements shall be in accordance with the layout drawings.
- Wiring to lighting points shall be installed with the phase cable connected to switches and cable joints shall not be permitted, except where high temperature cables are used for final

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V55 Self-contained emergency lighting and signage systems

630A INSTALLATION GENERALLY

- Standards: To BS 7671 and in accordance with BS 5266-1. Provide any emergency lighting units in the positions as shown on the drawings. Wiring to self-contained units shall be taken from local lighting circuits as indicated on the drawings. A local means of testing by key switch or other approved method shall be provided for all emergency lighting fittings and circuits.

V59 Luminaires and lamps

400A LUMINAIRES

- Provide at each lighting point as shown on the drawings or indicated in the schedules, a luminaire of the type indicated by the reference letter and detailed on the schedule of luminaires or light fittings. Allowance shall be made where appropriate to the luminaire manufacturer's standard suspensions in order to comply with mounting height requirements. The fundamental method of suspension shall not differ from that adopted by the manufacturer.
- Luminaires shall be provided with lamps/ fluorescent tubes as indicated; tungsten lamps shall be of the coiled coil "double life" type and pearl finish.

620A INSTALLING LUMINAIRES AND LAMPS GENERALLY

- Standard: To BS 7671
- Luminaires shall be thoroughly cleaned before installation and shall be in a new, clean, dust free condition at handover. Anti-static cleaner shall be used where appropriate on plastic materials. The permanent lighting installation shall not be used for temporary lighting purposes during the contract period without prior written approval of the Contract Administrator. In such cases the Contractor shall provide new lamps at Practical Completion.
- Luminaires shall be installed to suit the building programme relative to decoration and lamps, tubes, reflectors and louvres shall not be installed until all builders work is complete.
- Provide all necessary fixings, supports, suspensions, etc. in accordance with the manufacturer's instructions for mounting luminaires. Final connection to lampholders of luminaires shall be made using high temperature flexible cables from ceiling roses or porcelain connectors in point boxes.
- Final connections to suspended luminaires or luminaires recessed in suspended ceilings shall be made using 3 core white heat resisting

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flexible cord via a white 3 pin BS 5733 plug and socket mounted on a 50mm BESA box adjacent to the luminaire.

- Wiring grade cables may be used for connection to terminals of control gear provided they enter the fitting spine in such a position whereby the cables avoid passing the choke.
- Luminaires that are fixed onto or recessed into suspended ceilings shall not have their weight borne by the ceiling without prior written approval of the Contract Administrator. Luminaires shall be suspended from the floor, roof structure or ceiling beams above.
- At least two fixings are required for modular fluorescent luminaires up to 300mm wide and at least four fixings for those over 300mm wide.
- Suspended luminaires shall be installed, aligned and level, to the satisfaction of the Contract

V80 Electrical identification

330A ELECTRICAL SHOCK TREATMENT SIGNS

- Type: Durable plastic as Electrical Review/ Electrical Times approved pattern .

740 INSTALLING ELECTRIC SHOCK TREATMENT SIGNS

- Location: adjacent to each service intake panel .

V81 Earthing and bonding systems

110A EARTHING ARRANGEMENTS AND PROTECTIVE CONDUCTORS

- Standard: To BS 7671, in accordance with BS 7430, and to the requirements of the Supply Authority.
- Equipotential bonding conductors shall be connected to the extraneous conductive parts in accordance with regulation 413-02-02, where such services enter the premises, and to be connected to the consumer's earth terminal on the Main Distribution Panel. At each sub-distribution board or sub-distribution switchgear supplying loads with mixed disconnection times as described in regulation 413-02-13, provide additional equipotential bonding between the distribution board or switchgear, earth bar and extraneous conductive parts as described under condition (ii) of regulation 413-02-13.
- Equipotential bonding conductors shall be protected where liable to damage and at every point within 1.500m of finished floor level by means of steel conduit. Clamps complying with BS 951 shall be used and fitted in readily accessible positions. Crimped lugs shall be used for earth bonding conductors, screw type terminals are not acceptable.

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Y60 Conduit & trunking

310A CONDUIT AND TRUNKING GENERALLY

- Standard: To BS 7671.
- Proposals: Submit drawings, technical information, calculations and manufacturer's literature.
- Conduit and trunking sizes not stated: Submit proposals and calculations.
- All conduits, cable trunking and fittings shall be of approved manufacture and shall comply with the appropriate British Standard Specifications.
- Conduit and cable trunking systems shall be provided with all accessory pieces to make a complete system including boxes, tees, crossovers, bends, end caps, etc.. All components of a system shall be of the same manufacture.
- An insulated protective conductor sized in accordance with table 54G of the IEE Wiring Regulations shall be run for each circuit inside all conduit/trunking systems.

320A STEEL CONDUIT SYSTEMS

- Conduit shall be galvanized by the hot process both inside and out.
- All screwed joints must be made watertight by means of a suitable metallic paint.

320B STEEL CONDUIT FITTINGS

- No type of factory made elbow, bend or tee is allowed; all bends and sets shall be made by means of bending machines and the bore must be full and free.
- The radius of any bend must not be less than that given in BS 31 Table 3 or BS 4568, Standard sheets 4, 5 and 7 and where conduits are concealed the radius must be increased to facilitate the drawing-in of cables.
- Circular conduit boxes shall be used throughout except where adaptable boxes are required; the boxes shall be of malleable iron complete with covers and shall comply in all respects with BS 31 or BS 4568 Part 2.
- For surface work the boxes shall be of the raised back pattern, designed for use with distance saddles.
- For sunken work, malleable iron looping-in boxes shall be used.

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- All conduit fittings shall be galvanized both inside and out. Such fittings must be of Class B.2 pattern.
- Adaptable boxes shall be of malleable cast iron square or oblong as directed and of the following internal depths:

20mm Conduit30mm deep
25 - 32mm Conduit50mm deep
- The boxes shall be galvanized.
- All boxes other than those carrying lighting or other fittings, shall be fitted with malleable iron lids, machined or ground to make a good joint with the box by means of No. 2 - B.S. round headed brass screws.
- Draw-in boxes that shall consist of adaptable boxes shall be provided for the drawing in or out of cables after the installation is completed. The boxes shall be of ample size so as to avoid any undue cramping of the cable and so that they can be diverted easily from one conduit to another.

325 FLAMEPROOF CONDUIT

- This shall be heavy gauge solid drawn and screwed, used in conjunction with flameproof equipment and installed generally as for steel conduit, and in accordance with BS 5345.
- At the boundary point between 'safe' and "dangerous" areas flameproof sealing boxes shall be installed. In areas where moisture is likely to be present galvanized conduit and fittings shall be used.

327 INSULATED CONDUIT SYSTEMS

Insulated conduit shall be super high impact, heavy gauge, rigid circular PVC conduit installed where specified and where the ambient temperature is between - 5 degrees C and 60 degrees C.

640A INSTALLING STEEL CONDUIT

- The conduit is to be laid as far as possible in straight or symmetrical lines with easy sets or bends, and is to be properly and tightly screwed between the various lengths, and up to the boxes, distribution boards, etc., to which it runs or at which it terminates, so that the whole of the conduit installation is electrically continuous and watertight.
- Where, on account of the length of conduit runs, drawing in facilities are necessary, intermediate draw-in boxes are to be provided and fixed on the ceilings or walls as the case may require.
- Generally where conduit runs are to be installed from point to point in a straight run with no bends, draw-in boxes shall be provided in every 10m of conduit run, but where conduits are run from point to point with

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no more than two right angle bends, boxes shall be provided and fixed in no more than 8m of conduit run.

- No ceiling looping-in point box shall be used as a draw-in box for any other circuit than that for which such point box is intended.
- Conduits shall drop to all switch points, socket outlets, switch fuses, isolators or other items or equipment, unless otherwise specified.
- Throughout the installation the conduit, draw-in boxes, angle boxes, looping-in boxes, etc., are to be arranged and be of sufficiently large section to allow an easy "draw-in" or "out" of any or all of the cables in the conduit.
- Where a number of conduit runs of different services are run side by side and a change of direction or feed off is required by one of the services, an adaptable junction box is to be installed and the other conduits which contain different services to the one changing direction, will continue straight through the adaptable junction box, the holes at either end being clearance holes. The positioning of these adaptable boxes to be approved by the Contract Administrator.
- Conduits that are concealed in, or laid on, constructional floors etc., must be held with substantial fixings, which shall be approved by the Contract Administrator.
- Where it is necessary to cross conduits in floors, they must be set to form the minimum diversion.
- In the case of conduits laid in composition or concrete floors, the Contractor shall arrange for a competent person to be in attendance whilst the pouring is being carried out, in order to ensure that the conduit works are in good condition and to correct any damage that may occur.
- Conduit sets through walls will not be permitted. When change of direction is required after passing through a wall, an appropriate back outlet box is to be fitted.
- Where conduits are required to pass into or out of ducts, or from the inside to the outside of buildings, or in any other position where a considerable variation in temperatures exists between different sections of the building, free circulation of air must be prevented between the conduit systems of each section by inserting a conduit box in an approved position, the box to be filled with plastic compound (after the cables have been drawn in) to hermetically seal off the conduit system at that point.

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- Where conduit passes through floors, it is to be protected by means of a metal sleeve of such size as will allow the adequate space between the conduit and the sleeves. The sleeves to project 6mm above the finished floor level, and the space between the top of the sleeve and the conduit to be sealed with silicon based mastic.
- In no circumstances shall the conduit be erected in such a manner as to form a "U" without outlet, or in any other way that would provide a trap for condensed moisture. Provision shall be made for draining all conduits or fixtures by an approved method.
- The Contractor must ensure that the conduits are of sufficient capacity to allow all cables to be easily drawn in and out. The capacity of conduits to be installed must comply with recommendations detailed in the Institution of Electrical Engineer's Regulations for Electrical Installations 17th Edition.
- No conduit smaller than 20mm shall be installed without the written consent of the Contract Administrator.
- Running thread connectors with circular knurled edged locknuts shall be provided in long lengths of surface conduit where required by the Contract Administrator. The ends of fittings, sockets, etc., in such cases must be machine finished to permit perfect mechanical contact. The conduits must be screwed into all fittings, due regard being made to the total length of threads recommended in BS 31, Table 1 or BS 4568 Part 1, Standard Sheet 2 and the locknut fully tightened.
- All threads must be cut clean and the inside surface and ends of the conduits and all fittings used in connection therewith are to be smooth and free from burrs. The cut end of conduits must be reamed to remove burrs.
- The whole of the conduit system or section must be completed and swabbed through to remove dirt before cables are drawn in.
- Where conduits terminate in draw-in boxes or distribution boards, bus bar chambers, switch boxes, junction boxes, etc., clearance holes are to be drilled in the box or case of the above-mentioned equipment. A hexagon smooth bore brass bush is to be inserted through the clearance hole from the inside of the box or case and a conduit coupling screwed onto the bush and tightened so that the shoulder of the bush is pulled up tightly against the inside of the box or case.
- Where practicable all conduits shall be installed with at least 150mm clearance of any gas pipe, hot water pipe or radiator. In cases where the conduit must be run in close proximity, contact shall be prevented by means of insulating distance pieces or sleeves.
- Where the conduit is or may be in contact with any other metal work of any description, an efficient and permanent metallic connection shall be made between the conduit and the metal work.

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- Before commencing conduit work, the proposed runs shall be submitted to the Contract Administrator for approval, including the positions of draw-in boxes

640B INSTALLING STEEL CONDUIT FITTINGS

- Where two or more conduits are installed side by side and a point of diversion occurs, then an adaptable box shall be installed so that all crossovers of conduits are eliminated. Particular attention shall be paid, when installing such boxes, to the clause dealing with separate conduit runs and, if necessary, more than one box shall be installed.
- Where drawing-in facilities are required in the floors, the boxes must be grouped together in a position approved by the Contract Administrator and covered by a suitable floor trap as specified.

645 PAINTING OF STEEL CONDUITS

- Where the finish of the conduit is damaged during erection, the affected portions shall be protected with a coat of approved paint immediately the conduit is erected. When the conduit and fittings are to be concealed within the floors and walls, then the conduits and fittings shall be given one coat of Rustolium Red Oxide Primer, allowing sufficient time for the paint to dry before the conduit is concealed.

650A INSTALLING INSULATED CONDUIT SYSTEMS

- The installation procedure detailed for metal conduit shall be observed in so far as this would apply to insulated (PVC) conduit.
- Conduits up to 25mm diameter may be bent and/or manipulated cold using the correct size bending spring but conduits above 25mm, diameter must be bent/manipulated using the hot bending method, which shall be carried out strictly in accordance with the manufacturer's recommendations.
- Joints between conduits and a conduit fitting shall be effected by using push fit couplings and accessories and vinyl cement.
- Conduit runs exceeding 7m in length shall be provided with an expansion coupler that shall be fitted between lengths of conduit using a flexible type cement. Conduits shall be fixed with PVC spacer bar saddles.
- Conduit boxes and accessories shall also be PVC but a non-metallic box of thermoplastic materials (e.g. PVC) shall not be used for the suspension of a lighting fitting.
- Unless specified elsewhere a separate protective conductor must be installed in all insulated conduit, in accordance with Table 54G of the IEE Wiring Regulations.

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660A INSTALLING STEEL FLEXIBLE CONDUIT

- Steel flexible conduit shall be installed for connections to vibrating and adjustable equipment, also at points where structural expansion occurs. Connection to the rigid conduit system shall be by means of a solid type female adapter that shall be fixed in accordance with the manufacturers instructions.
- Flexible conduits shall be of adequate length to avoid strain and shall be LS-1/PVC or equal and approved and be terminated via the manufacturers couplings.
- An insulated protective conductor, no smaller than 2.5mm² shall be run inside the flexible conduit and bonded to the metal work at each end with set screws and brass washers. The cable shall comply with regulation 543-01.

670A PROTECTION OF CONDUIT FROM BLOCKAGE

- All conduit outlets installed in concrete or other "in situ" construction must be plugged with extreme care to prevent the ingress of foreign matter causing the conduit to be blocked during building construction. The Contractor will be held responsible for any additional building costs resulting

690A INSTALLING CABLE TRUNKING GENERALLY

- Trunking shall be installed as indicated on the drawings or detailed in the particular specification and in any situation where the running of cables may be simplified or the appearance of the installation improved.
- Steel trunking shall be made of not less than 18 gauge sheet steel and have an approved stove enamelled finish, (unless stated otherwise) except in damp areas where galvanised finish trunking shall be used. Bends, tees, elbows etc., shall be made by the trunking manufacturer.
- Joints in metal trunking necessary to form special shapes shall be welded in an approved manner.
- All sections of trunking etc., shall be bonded together with brass or copper straps so as to provide an effective and permanent protective conductor connection. Care shall be taken to ensure that the paint finish of the trunking sections does not reduce the effect of the bonding. Cable supports shall be fitted throughout the trunking at intervals not exceeding 2000mm or 1000mm if the lid is on the underside.
- Purpose-made expansion joint units shall be installed at all structural expansion points and be fitted with separate earth continuity conductors.

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- For multi-compartment trunking, propriety cross-over bridges shall be installed at points where cables entering the trunking have to cross compartments accommodating segregated services. In cases where bridges are not available, the conduit containing the cables shall be extended to the appropriate compartment.
- Fire resisting barriers shall be fitted where the trunking passes through floor slabs or walls. The trunking cover shall be fitted permanently at these points and shall extend to 80mm on each side of walls or below ceiling level and 300mm above floor level.
- Where a trunking carries cables serving more than one circuit, each individual circuit shall be grouped together and bound with PVC tape.
- The following types shall comply generally with the foregoing and with the additions detailed hereunder: -
 - Busbar Trunking - The covers shall be provided with means to prevent unauthorized access.
 - Shaped Skirting and Bench Trunking - An earth terminal shall be provided at all outlet positions, with a positive earthing connection fixed within the trunking.
 - Surface Lighting Trunking - This shall be fixed direct to the ceiling or suspended as specified. Sufficient supports of the manufacturers recommended type shall be fitted to carry the involved weight and provision shall be made for fixing the lighting fittings, switch units, etc., by means of the manufacturers accessories. The lid of the trunking shall be underneath and shall completely seal the trunking between fittings.
 - Flush Trunking, Other than Floor Trunking - This shall be fixed in purpose-made positions or built in situ by the Contractor as specified. The Contractor shall be responsible for its proper alignment.
 - Floor Trunking - This shall be installed on the structural slab to the levels, indicated for the finished floor. The Contractor shall provide the necessary protection to prevent damage and distortion of the trunking and the ingress of foreign matter during the laying of the screed and floor. All trunking shall be cleaned out before wiring commences.
 - Trunking covers shall be position numbered on the underside so as to match with corresponding numbers marked inside the trunking.
 - Underfloor Duct - This shall be installed as for floor trunking. Fittings and accessories shall be those specifically designed for use with the duct and be installed in accordance with the manufacturer's instructions. Purpose-made units shall be used for the connection of conduits and skirting and vertical trunking to the duct.
 - Insulated Trunking - This shall be PVCu and as detailed in the particular specification.

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- The installation procedure detailed for steel trunking shall be observed in so far as this would apply to insulated (pvc) trunking.

770A STEEL CONDUITS - FIXINGS

- Where switches, conduits and fittings are to be fixed, walls and ceilings shall be neatly plugged using plugs of the Rawlplug type.
- The conduits are to be effectively fixed to the walls, ceilings or joists by means of malleable iron distance saddles (unless otherwise directed by the Contract Administrator) having the saddle fixed to the base by two Nr. 2 BA round head brass screws, so that the conduit stands clear of the surface by not less than 6mm.
- Where bends and sets occur, the conduit shall be supported by saddles 150mm either side of the bend or set.
- In roof spaces and under floors, heavy gauge saddles with two fixing holes may be used to hold the conduit close up to the surface to which it is fixed.
- All draw-in boxes, pendant boxes and switch boxes are to be securely fixed to the walls, ceilings, joists, etc., by means of at least two countersunk screws correctly spaced and the fixing holes to be countersunk so that the screw heads do not project into the cast iron box. Where drilled the drilling to be such that all runs are straight or at correct angles, so that it is not necessary for the conduits to be set on entering.
- Where conduit boxes or other fittings are fixed to girders, wrought iron clips, of adequate section, shall be employed, and in no case shall holes be drilled in the girders without the sanction of the Contract Administrator given in writing.

Y63 Cable supports

340A CABLE TRAYS AND SUPPORTS

- In general the tray shall be of galvanised finish but for corrosive atmosphere it shall be polythene or PVC coated. Bends and tees shall be purpose-made to match the cable tray.
- Brackets shall be painted or galvanised as required by the location and be of adequate strength to support the cable tray and weight of cable(s) fixed to it.

630A INSTALLING CABLE TRAY

- The spacing of the brackets and other tray supports shall not exceed 1.000m, the first and last support for each length of tray being within 150mm of the end of the tray. The brackets shall give sufficient clearance behind the tray for cable fixings to be made and when supporting cable trays in "tier" formation, they shall give clear access to all trays. The fixing of trays to brackets and supports shall be

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made using cadmium or zinc plated steel mushroom headed nuts and bolts with shake proof washers.

- Cable tray runs shall be broken at structural expansion joints, at these points the cable trays shall be bridged with a flexible protective conductor which shall be capable of absorbing, without strain, all movement of the joints. Earth continuity shall be maintained between non-insulated tray and supports, but insulated tray shall be earth-free.
- Cables shall be secured using purpose-made clips fixed with brass or cadmium plated bolts or by approved propriety fixings. Where the cables pass through holes they shall be fitted with a protective sheathing.

Y65 Electrical accessories

620A ARRANGEMENT

- Location: Coordinate with other wall or ceiling mounted equipment. Submit proposals.
- Positioning: Accurate and square to vertical and horizontal axes.
- Alignment: Align adjacent accessories on the same vertical or horizontal axis.
- Fixing: Secure, plumb and level. In addition, the Contractor shall supply and install a permanent label detailing the circuit reference and origin of the supply on the front faceplate of each socket outlet and all other final fixed power connection devices, in all buildings with the exception of school buildings. Where Residual current devices (r c d's) are installed, a suitable permanent notice with the following wording shall be installed in a prominent position at the relevant distribution board:-

"This installation, or part of it, is protected by a device which automatically switches off the supply if an earth fault develops. Test the device quarterly by pressing the button marked T or 'Test'. If the device does not switch off the supply when the test button is pressed, seek expert advice."

PART C - PARTICULAR ELECTRICAL SPECIFICATION

Particular Specification for the Routine Inspection and Testing of Fixed Electrical Systems in Civic Buildings

1. General

This Specification shall form part of any contract for the routine inspection, testing of Fixed Electrical Systems within the requirements of the **Electricity at Work Regulations 1989** and **IET Wiring Regulations 17th Edition (BS 7671:2008 incorporating amendment number 1:2011)** As the majority of installations were designed and constructed in accordance with older standards, in accordance with regulation 621.1 the purpose of the inspection is “to determine, so far as is reasonably practicable, whether the installation is in a satisfactory condition for continued service”, not if it meets current standards.

The extent of the installation to be inspected and tested shall include all electrically supplied equipment including supplies to and from mechanical services control systems and panels but excluding extra low voltage controls.

To maintain the objective nature of the inspection and testing process it is not intended to utilise the inspection and testing Contractor to carry out any repairs, although emergency and/or temporary repairs may be required. Wolverhampton City Council Standard Electrical Specification is included in Section D and shall be used where the Contractor is requested to carry out repairs and for bench marking purposes to enable the Contractor to compare the required standard of all electrical systems.

1.1 Monthly Progress Status Reporting and KPI's

The Contractor shall submit on a monthly basis a site by site progress report for the Contract which shall indicate the following: -

- Information required and received dates;
- the planned commencement date for each inspection;
- the actual commencement date for each inspection;
- the planned completion date for each inspection;
- the actual completion date for each inspection;
- Deliverables dates planned and actual for:-
 - Initial Report;
 - Final Report;
 - Drawing Information;
 - Invoice Submission;

Where planned and actual dates are not met the Contractor shall state reason for not meeting the requirement.

The above information will be used to monitor both the Contractor and the Councils performance in relation to the provisioning of the Contract.

1.2 Deliverables

The Electrical Condition Reporting Process shall provide as a minimum the following deliverables:-

- Overall Risk Assessment and Method Statements for the planned inspections;
- Initial telephone contact and introduction letter to each site explaining the reason, and requirement for inspection;
- Negotiation, arrangement and agreement in relation to the programming of the inspections with each individual site;
- Presentation of overall programme for delivery of inspections;
- Initial visual inspection of the site;
- Site specific Risk Assessment and Method Statements;
- A detailed visual inspection in accordance with the checklist contained within *Guidance Note 3 (Inspection & Testing)*;
- A detailed intrusive inspection and test upon the buildings fixed electrical system, following the method and sequence set out in IET Wiring Regulations 17th Edition (BS 7671:2008 incorporating amendment number 1:2011) with particular attention to Part 6 and Guidance Note 3;
- Written overall summary report of site condition.
- A detailed Electrical Condition Report (intrusive inspection and test report) of all electrical services including mechanical services equipment supplies, identifying the following conditions:-
 - C1 ("Danger present"), the safety of those using the installation is at risk, and it is recommended that a competent person undertakes the necessary remedial work immediately. The presence of a Code C1 warrants immediate action to be taken which would be to inform the Councils Electrical Engineer, duty holder or responsible person for the installation immediately. This immediate action should be reported both verbally and in writing, of the risk of injury that exists. A detailed explanation of this risk should be recorded on the report, together with details of any verbal and written warnings of dangerous situations that exist. If possible, immediately dangerous situations should be made safe or rectified before further work or inspections are carried out.
 - C2 ("Potentially dangerous"), the safety of those using the installation may be at risk and it is recommended that a competent person undertakes the necessary remedial work as a matter of urgency.
 - C3("Improvement recommended")

- non-classifiable findings should also be put into the report, it should be made clear to the client that findings of this nature do not detract from the installation's safety and it should be made clear in the report that they are only observations.
- Temporary repairs of a minor nature where practicable will be carried out as part of the inspection process for items with a Code 1 classification. For example broken socket outlet taped-up, holes in distribution boards taped-up until permanent repairs can be arranged.
- Provision of updated distribution board charts and labelling of site equipment and accessories.
- Electronic reports and drawings indicating distribution positions, circuits, items tested and items / circuits in fault.
- Thermal imaging of main distribution, distribution boards and items displaying heat damage.
- Photographic images of main distribution, and distribution boards.

2. Arrangements for Testing

The Contractor shall be responsible for making all arrangements for all inspections well in advance of the proposed site visit. Managers and their telephone numbers will be provided to assist in the preparation the detailed advance work programme. In addition to the advanced programming of inspections the contractor shall give at least 72 hours and not more than 120 hours notice to the manager of the building prior to visiting any building to undertake the condition reporting and testing of Fixed Electrical Systems.

On arrival, immediate contact should be made with the senior member of staff on duty and instructions received on any "signing in" procedure and any particular Health and Safety requirements. On completion of testing work, as detailed in this Specification, the senior member of staff on duty shall be informed and their signature obtained certifying attendance.

3. Programme of Work and Certification of Testing

Following receipt of the annual work schedule and before any work commences the Contractor shall submit an outline programme of works for the approval of the Electrical Maintenance Engineer. This shall indicate a list of the sites and the proposed months the visits will be carried out.

Details of all instrumentation will be provided to the Electrical Maintenance Engineer prior to the starting of work. This will include all serial numbers and calibration certificates. These will be cross referenced with the details on individual test certificates.

All Health and Safety Risk Assessments and Method Statements (RAMS) shall be submitted to the Councils supervising officer prior to commencement of any testing on site. Generic RAMS shall be reviewed and adjusted on site prior to works commencing on site.

Within **56 working days** following each visit the Contractor **MUST** forward a copy of the test certificate and report to the Electrical Maintenance Engineer at the Civic Centre.

On or immediately adjacent to the Main Distribution Panel a notice shall be affixed indicating the Contractor responsible for the testing and any site reference in addition to the notification required by the wiring regulations.

4. Inspections Generally

The Contractor shall be aware that all the buildings will continue to operate normally for the duration of the works. The Contractor shall make sufficient allowance within the tender submission and rates to work around existing building occupants and processes to minimise disruption to the service provided.

The Contractor shall take all necessary precautions to ensure a safe environment is maintained for their testing works with provision for all necessary signage, barriers and necessary out of hours or weekend working. A separate rate shall be offered within the summary of tender for out of hours working.

The Contractor shall provide, on site a senior site supervisor at all times during the site works, who is able to make decisions for your companies progress and program and fit works around the sites needs. They shall be fully authorised to agree to alternative times, possibly outside normal working hours, where prior approval from the Electrical Maintenance Engineer has been given.

Before any circuit is isolated for testing the Contractor must have ensured it does not affect any general site services such as telephone, fire alarm, intruder alarm, computer network etc. Where it is essential for such a circuit to be isolated all affected people/agencies must be informed and agreement reached before proceeding.

5. Record Information and Survey Drawings

Current record information for the installations, held by Wolverhampton City Council will be provided for each site, for the contractor prior to the testing and inspection on each individual building. For some buildings there may be no record information, or only limited historic construction drawings or plans. The accuracy of these drawings cannot be guaranteed and the actual layout may vary from that shown.

6. Initial Visual Inspection (Condition Report)

An initial visual inspection of the installation shall be conducted prior to the commencement of detailed inspection and testing works, the opening of enclosures, the removal of covers etc. in order to verify that the safety of persons and property is not unreasonably compromised as a result of the works.

The Contractor shall make a thorough visual inspection of all elements of the installation, which are not concealed. In addition, the internal condition of a sample of the installation shall be examined. The Contractor shall note the external condition of electrical equipment and detail where damage or deterioration has occurred in the Final Report.

In accordance with Government requirements, this part of the report shall be detailed with differing electrical elements and across predefined sections of the property. Estimated costs of recommendations shall be included and priorities against a defined standard. A copy of the Wolverhampton City Council Report has been included for reference and further copies will be provided as necessary.

A more general inspection shall then be carried out to check on the state of all electrical equipment and materials for the following areas:-

- Safety - in accordance with all the Regulations set out in the Electricity at work regulations (E.A.W.R.) 1889. A list of the regulations and a simple "YES" or "NO" to confirm compliance. Any NO's shall be detailed and risk assessments included within the recommendation section of the report.
- Durability and how the installation is withstanding the day to day wear and tear, Corrosion and Damage. Opinion on the suitability of the equipment and system for the installations use is to be reported.
- Signs of Electrical Overloading
- Estimated age of all the equipment installed.
- Physical and or external influences which may be effecting the installation.

During this inspection phase of the works, the Contractor shall identify any elements which may give rise to danger during the testing of the installation. Any areas where there are particular problems for access or where additional safety precautions may be required should be noted and the Electrical Maintenance Engineer shall be made aware of the problems.

7. Detailed Visual Inspection

A detailed visual inspection in accordance with the checklist contained within **Guidance Note 3 (Inspection & Testing)** of the complete installation shall be conducted, following the initial inspection. The Contractor shall be aware that dismantling of the electrical system shall

be required. This shall only be carried out by competent electrically trained personnel. Care shall be exercised to ensure no damage is caused by this inspection works and any disruption to the site has been assessed and agreed by the building Manager.

The Contractor shall carry-out a thorough internal visual examination of a random sample of wiring accessories to assess their condition. The accessories selected shall be noted upon the report and the drawings, for future identification and record purposes. A minimum of 50% of all of the wiring accessories and equipment connections in the buildings electrical system shall be selected. Where the inspection reveals any form of deterioration from the anticipated condition for an installation of this type, then guidance should be sought from the Electrical Maintenance Engineer, who, may extend the inspection to include all wiring accessories associated with the installation unless there is clear evidence of how the damage has occurred.

Where previous inspection reports and drawings are provided the Contractor shall as part of the 50% internal visual examination include for examination of all previously reported faults, defects and observations to confirm where repairs have / have not been implemented. The remainder of the 50% internal visual examination shall include at least 60% of accessories and equipment not inspected during the previous inspection.

The works shall include all accessible parts of the electrical distribution system such as switchgear, distribution boards, isolators and switch disconnector's along with a sample of lighting points, socket outlets, fused connection units, and isolators in order to ensure that all terminal connections of conductors are properly installed and secured.

Any indication of overload or overheating of terminations, conductors or equipment must be reported to the Electrical Maintenance Engineer. Any such instances of overheating must be thoroughly investigated with the use of thermal imaging using an infrared camera. Images taken during the investigations are to be included in the Final Report together with a written statement of advice should further action or more frequent inspection be deemed necessary.

Other Items to consider are as follows:-

- Method of Protection against Electric Shock, both Direct and Indirect contact.
- Method of mechanical protection and suitability with the current use of the building.
- Prevention of Mutual Detrimental Influence
- Identification, to include danger notices and warning notices in the correct location around the building.

- Protection against Thermal Effects, barriers and screens
- Fire separation and barriers, installed correctly in the electrical system.
- Appropriate isolators, accessories, protective devices and emergency switch devices.
- Correct connection to the electrical industries standards.
- Selection and erection of equipment.
- Verify the accessibility of the device for normal operation, maintenance and inspection.
- The identification of the size of all conductors and cables used in the installation. This shall include the Protective conductors.
- In some instances imperial cable will be present, the metric conversion size shall be shown with a "IM" after the size. The report shall include comment upon the cable containment and its condition.
- The routing of the conductors shall be considered, either within the prescribed zones or within mechanical protection. This to be noted with in the final report.

8. Electrical System Testing

The Contractor shall carry out tests upon the buildings fixed electrical system, following the method and sequence set out in **IET Wiring Regulations 17th Edition (BS 7671:2008 incorporating amendment number 1:2011)** with particular attention to Part 6 and Guidance Note 3 issued by the Wiring Regulations Policy Committee. The level of Insulation resistance and ring circuit continuity testing to be carried out may vary based on the Detailed Visual Inspection and the amount of disruption involved with disconnecting equipment. All other aspects of the testing as indicated in Guidance Note 3 and the tables therein shall be carried out on 100% of the system. The tender is to be based on a fixed percentage of 33% for insulation resistance and continuity testing. Adjustments from this figure are to be agreed with the Electrical Maintenance Engineer following the inspection but prior to any test being carried out.

The Contractor shall include the following additional services during the electrical system testing: -

- Phase rotation to confirm (Red, Yellow, Blue) or L1,L2,L3
- Thermal imaging photograph of the mains switch gear, distribution boards, equipment where signs of heat damage are evident, whilst it is at peak site operation load.
- Normal photographic survey of the mains switchgear and distribution boards.

- Identification on site drawings provided of items tested together with the locations of faults identified.
- Logging and recording on the site drawings and records to be produced by the electrical contractor both in AutoCad and PDF format.

9. Labels and Markings of Electrical System

The Contractor shall verify during the inspection that all sub-main circuits, final circuits, distribution boards, and switchgear are labelled, in accordance with regulations. Where existing labels are found the Contractor shall provide additional labelling to ensure consistency across the complete installation.

Where no labelling is present new labelling shall be provided by the Contractor.

This new Labelling shall generally be printed using a propriety labelling machine with black lettering on a white background and securely fixed to the relevant element.

For final circuit distribution boards, the Contractor shall ensure that each way is clearly identified and numbered to correspond to the relevant distribution board schedule. This can be a typed chart, exported from a computer software system, protected by means of a rigid transparent plastic cover mounted on the inside of the front cover of the relevant distribution board or, where this is not possible, directly adjacent to the relevant distribution board.

In addition, the Contractor shall supply and install a permanent label detailing the circuit reference and origin of the supply on the front faceplate of each socket outlet and all other final fixed power connection devices, in all buildings. Where Residual current devices (RCD's) are installed, a suitable permanent notice with the following wording shall be installed in a prominent position at the relevant distribution board:-

"This installation, or part of it, is protected by a device which automatically switches off the supply if an earth fault develops. Test the device quarterly by pressing the button marked T or 'Test'. If the device does not switch off the supply when the test button is pressed, seek expert advice."

10. Drawings and Testing Results

The Contractor shall provide electronic drawings (Electrical Layout Drawings and Distribution Schematic Layout), in an AutoCAD and PDF format, based upon the electronic drawings issued to the contractor by Wolverhampton City Council. These drawings to show the following information:-

- The wiring accessories inspected as part of the detailed inspection
- The wiring accessories and equipment displaying Code 1 or Code 2 inspection defects requiring remedial action.
- All building Distribution boards and switchgear as installed, with labels and description.
- All building areas, room numbers and names, used upon the test results provided. This is to be audited by the testing engineer to ensure it is correct.
- Metering points and mains service incoming points.
- All Main bonding points,

In addition the Contractor shall provide both editable and non-editable circuit information on each and every circuit on site. Editable formats shall be suitable for importation into Microsoft Excel and Microsoft Access. Non-editable format shall comprise recognised Electrical Condition Reporting Software and PDF.

The Contractor shall provide a copy of the Electrical Condition Reporting Software used together with an appropriate licence for installation on to the Councils Computer System.

11. Emergency Attendance

The Contractor shall provide for the duration of this contract, a constantly manned telephone to which problems with sites tested, within the last 8 hours, may be reported, together with a capability of responding to such calls by the attention of appropriately skilled staff within a time of 100 minutes from initiation. The Engineer shall respond to such emergency calls as required and the Contractor shall demonstrate this ability to the satisfaction of the Engineer prior to the commencement of the contract.

In the event of an Out of hours call the name of officer requesting attendance MUST be identified and a request for a confirmation instruction made, as soon as practicable, during normal office hours, to the Electrical Maintenance unit. Failure to comply may result in a delay in payment while an investigation is carried out into the circumstances of the incident.

PART D - SCHEDULE OF PROPERTIES

The following is an indicative list of properties to be tested over a 4 year cycle. 2L-Represents Provisional List Year 2015-2016.

3L-Represents Provisional List Year 2016-2017.

4L-Represents Provisional List Year 2017-2018.

1L-Represents Provisional List Year 2018-2019.(Subject to Contract extension)

1A-Represents Provisional List for Annual Inspection

Provisional List for Annual Inspection – 1A

	St. Peters Garden's Fountain	500	Lichfield Street	1A	Annual
	Old Hall Street Fountain	500	Old Hall Street	1A	Annual
	Heath Town Park - Feeder Pillar			1A	Annual
	Wednesfield Fountain	500	Well Lane	1A	Annual
LS0011	Pheonix Park Feeder Pillars		Dudley Road	1A	Annual
LS0014	East Park - Swimming Pool Pump House		Hickman Ave	1A	Annual
LS0030	Central Baths (Pool & Wet Areas)	2531	Bath Avenue	1A	Annual
LS0096	West Park - Feeder Pillar A	500	West Park	1A	Annual
LS0096	West Park - Feeder Pillar C	500	West Park	1A	Annual
LS0096	West Park - Feeder Pillar D	500	West Park	1A	Annual
LS0112	Tettenhall Pool Pump House	26	Stockwell Road	1A	Annual
LS0469	Bert Williams Leisure Centre (pool and wet areas)		Nettlefolds Way	1A	Annual
LS0099	Aldersley Leisure Village (Wet Areas and externals)		Aldersley Road	2L	4 Years

Provisional List for 4 Yearly Inspection – 1L

	Hanover House		61 - 64 Dudley Road	1L	4 Years
DS0001	Bilston Retail Market	2677	Pinfold Street	1L	4 Years
ED0006	Bilston Education Centre Servery		Prosser Street	1L	4 Years
ED00016	Christ Church C.E. Inf.Sch. Kitchen(Shaw)		Shaw Lane	1L	4 Years
ED00019	Northwood Park Primary School	4845	Collingwood Road	1L	4 Years
ED00029	D'Eyncourt Primary School	1484	Mullet Road	1L	4 Years
ED00035	Eastfield Primary School	3662	Colliery Rd, off Willenhall Rd	1L	4 Years
ED00048	Field View Primary School	2471	Lonsdale Road	1L	4 Years
ED00054	Hill Avenue Primary School	1948	Hill Avenue	1L	4 Years
ED00055	Holy Rosary R.C. Primary School	1046	Hickman Avenue	1L	4 Years
ED00064	Loxdale Primary School	1422	Chapel Street	1L	4 Years
ED00065	Manor Primary School	2339	Ettingshall Road	1L	4 Years
ED00066	Merridale Primary School	1211	Aspen Way	1L	4 Years
ED00078	Parkfield Primary School	1356	Dimmock Street	1L	4 Years
ED00098	St. Anthony's R.C. Primary School	1894	Stafford Road	1L	4 Years
ED00107	St. Martin's C.E. Primary School	1721	Wallace Road	1L	4 Years
ED00110	St. Michael's C.E. Primary School	1078	Lower Street	1L	4 Years
ED00115	St. Stephen's C.E. Primary School	1588	Woden Road	1L	4 Years
ED00117	St. Thomas's C.E. Primary School	1162	Mattox Road	1L	4 Years
ED00123	Giffard R.C. Primary School. The	1316	Hordern Close	1L	4 Years
ED00130	Villiers Primary School	2442	Prouds Lane	1L	4 Years
ED00168	Moseley Park Kitchen		Holland Road	1L	4 Years
ED00174	Children's Village ; The		Graiseley Lane	1L	4 Years
ED00174?	Little Angels Childrens Centre		290 Chervil Rise	1L	4 Years
EH00003	Bushbury Crematorium	700	Underhill Lane	1L	4 Years
HS0510	Low Hill/Bushbury Housing Office	150	Showell Circus	1L	4 Years
LS0004	Hickman Park Office		Hickman Park	1L	4 Years
LS0004	Hickman Park Bandstand		Hickman Park	1L	4 Years
LS0012	Gorge Nature Reserve. The	299	83 Gorge Road	1L	4 Years
LS0023	Bilston Community Centre	663	Prouds Lane	1L	4 Years

LS0023	Bilston Development Unit			Prouds Lane	1L	4 Years
LS0026	Bradmore Community Centre	624		Birches Barn Road	1L	4 Years
LS0033	Civic & Wulfrun Halls	7432		North Street	1L	4 Years
LS0103	Gatis Street Adventure Playground	245		Gatis Street	1L	4 Years
LS0148	Old Fallings Play Adventure Building	257		Old Fallings Crescent	1L	4 Years
LS0318	Heath Town Community Centre	609		208 Chervil Rise	1L	4 Years
LS0319	Dunstall Hill Community Centre	900		Dunstall Avenue	1L	4 Years
LS0322	Finchfield Library	156		White Oak Drive	1L	4 Years
LS0349	Lower Bradley Youth & Comm. Centre	680		Wallace Road	1L	4 Years
LS0390	Wednesfield Park Mess Rooms	207		Wednesfield Park	1L	4 Years
LS0390	Wednesfield Park Judo Club(Frmly Boxing)			Duke Street	1L	4 Years
LS0408	Merridale St Stores (Play Ldrship Off.)	400		Merridale Street	1L	4 Years
LS0471	Wednesfield Library / Community Centre	810.3		2 Well Lane	1L	4 Years
SS0007	Bradley Lodge (Resource Centre)	1490		Lord Street	1L	4 Years
SS0017	Maltings Day Centre	2394		The Maltings	1L	4 Years
SS0025	Windmill Children's Residential Centre	524		54 Windmill Lane	1L	4 Years
SS0026	Woden Resource Centre	1950		Vicarage Road	1L	4 Years
SS0045	Bradley Day Centre	515		Wilkinson Avenue	1L	4 Years
SS0050	North West Adults Offices (Low Hill)	503		Showell Circus	1L	4 Years
SS0062	Ernest Bold Resource Centre	1460		Wolverhampton Street	1L	4 Years

Provisional List for 4 Yearly Inspection – 2L

DS0003	Retail Market Wolverhampton	7596	School Street	2L	4 Years
DS0006	Wednesfield Market	111	High Street	2L	4 Years
ED0001	Woodthorne Primary School	2333	Woodthorne Road South	2L	4 Years
ED0013	Castlecroft Primary School	1791	Windmill Crescent	2L	4 Years
ED0016	Christ Church C.E. Infants School(Shaw Ln)	1025	Shaw Lane	2L	4 Years
ED0031	Dovecotes Primary School	2903	Ryefield	2L	4 Years
ED0032	Dunstall Hill Primary School	1338	Dunstall Avenue	2L	4 Years
ED0044	Goldthorn Park Primary School	2233	Ward Road	2L	4 Years
ED0045	Graiseley Primary School	2392	Graiseley Hill	2L	4 Years
ED0045	Schools HR/Union Offices (Graiseley)	858	Graiseley Centre, Pool Street,	2L	4 Years
ED0046	Graiseley Youth Centre	1252	Pool Street	2L	4 Years
ED0051	Grove Primary School	2927	Caledonia Road	2L	4 Years
ED0058	Kingswood Residential Centre (Nur)	1024	Holyhead Road	2L	4 Years
ED0060	Lanesfield Primary School	1643	Newman Avenue	2L	4 Years
ED0061	Long Knowle Primary School	1526	Blackwood Avenue	2L	4 Years
ED0063	Low Hill Nursery School	233	Jenks Avenue	2L	4 Years
ED0069	Graiseley Music School	852	Graiseley Hill	2L	4 Years
ED0077	Palmer's Cross Primary School	1486	Windermere Road	2L	4 Years
ED0084	Phoenix Nursery School	179	Phoenix Street	2L	4 Years
ED0109	SS Mary & John's R.C. Primary School	1354	Caledonia Road	2L	4 Years
ED0128	Uplands Junior School	1830	Finchfield Road West	2L	4 Years
ED0138	Westcroft School	2617	Greenacres Avenue	2L	4 Years
ED0139	Whitgreave Infants School	1099	Low Hill Crescent	2L	4 Years
ED0140	Whitgreave Junior School	1180	Goodyear Avenue	2L	4 Years
ED0146	Wood End Primary School	1694	Wood End Road	2L	4 Years
ED0162	St. Teresa's R.C. Primary School	1169	Mallins Road	2L	4 Years
ED0179	Billy's Play Space (fmr. Creche)		25a Market Way	2L	4 Years
EP0018	Bond House	1814	St. Johns Square	2L	4 Years
EP0094	Independent Living Service	1742.4	Titan 1	2L	4 Years
FG0007	Carers Support Team(Blossoms Fold)		Blossoms Fold	2L	4 Years

SS0028	Beldray Building	1384	66 Mount Pleasant	2L	4 Years
SS0043	Review Team Office (St. Judes)	177	St. Judes Road	2L	4 Years
SS0044	Initial Assessment Team Office(NEareaOff)	441	Alfred Squire Road	2L	4 Years

Provisional List for 4 Yearly Inspection – 3L

	Bushbury Hill Primary School (New Build)		Old Fallings Lane	3L	4 Years
ED0008	Bantock Primary School (Bingley site)	2419	Aston Street	3L	4 Years
ED0009	Nishkam Primary School	1556	Great Brickkiln Street	3L	4 Years
ED0012	Bushbury Nursery School	346	Bushbury Lane	3L	4 Years
ED0025	Corpus Christi R.C. Primary School	1221	Ashmore Avenue	3L	4 Years
ED0036	Eastfield Nursery School	372	Griffin Street	3L	4 Years
ED0067	Edward the Elder Primary (Moathouse Site)	1706	Moathouse Lane East	3L	4 Years
ED0072	Oak Meadow Primary School (New Build)	2831	Ryan Avenue	3L	4 Years
ED0076	Oxley Primary School	1345	Ripon Road	3L	4 Years
ED0079	Parkfield Centre	10356	Wolverhampton Road East	3L	4 Years
ED0083	Perry Hall Primary School	3277	Coleman Avenue	3L	4 Years
ED0092	Springvale Primary School	1244	Kenilworth Crescent	3L	4 Years
ED0093	Springdale Junior School	2542	Warstones Drive	3L	4 Years
ED0094	Springdale Infants School	2081	Warstones Drive	3L	4 Years
ED0095	St. Alban's C.E. Primary School	1370	St. Alban's Close	3L	4 Years
ED0096	St. Andrew's C.E. Primary School	3857	Coleman Street	3L	4 Years
ED0108	St. Mary's R.C. Primary School	1704	Cannock Road	3L	4 Years
ED0112	St. Patrick's R.C. Primary School	1333	Graisley Lane	3L	4 Years
ED0113	St. Paul's C.E. Primary School	2226	Emsworth Crescent	3L	4 Years
ED0124	Towers ; The Outdoor Education Centre	1167	Capel Curig	3L	4 Years
ED0135	Broadmeadow Nursery	958	Lansdowne Road	3L	4 Years
ED0136	West Park Primary School	1557	Devon Road	3L	4 Years
ED0144	Woden Primary School	3235	Springfield Road	3L	4 Years
ED0147	Woodfield Infants School	1426	Woodfield Avenue	3L	4 Years
ED0148	Woodfield Junior School	2151	Woodfield Avenue	3L	4 Years

ED0151	Compton Grange Adult Education Centre		348	55 Compton Road West	3L	4 Years
ED0152	Alan Garner Centre		330	Old Hall Street	3L	4 Years
ED0152	Adult Education ; College of		2191	Old Hall Street	3L	4 Years
ED0155	Braybrook Centre		1432	Bellamy Lane	3L	4 Years
EH0001	Beacon Hill Cemetery		200	Dovedale Road	3L	4 Years
EH0002	Bilston Cemetery		143	Cemetery Street	3L	4 Years
EH0006	Merridale Cemetery		158	Jeffcock Road	3L	4 Years
EH0009	Mortuary, Wednesday		241	Alfred Squire Road	3L	4 Years
EP0028	Pendeford Mill Nature Reserve			Pendeford Mill Lane	3L	4 Years
EP0028	Old Tree Ny(Pendeford Lne S.P.Centre)		105	Pendeford Hall Lane	3L	4 Years
EP0032	Bushbury Woodcraft		350	Units 37/38 Steel Drive	3L	4 Years
EP0080	City 10		406	18 Queen Square	3L	4 Years
FG0008	Child Care Agency		283	10 King Street	3L	4 Years
HS0388	South East Constituency Office (Bradley)		178	58 Bank Street	3L	4 Years
HT0074	Shopmobility Centre		183	12 Cleveland Street	3L	4 Years
HT0244	Highways Depot - Qualcast Rd.			Qualcast Road	3L	4 Years
LS0001	Northwood Park Office		257	Northwood Park Road	3L	4 Years
LS0006	King George V Changing Rooms		171	Amos Lane	3L	4 Years
LS0020	All Saints Youth & Community Centre		788	All Saints Road	3L	4 Years
LS0021	Ashmore Park Library		212	Griffiths Drive	3L	4 Years
LS0025	Bilston Library/Sp Needs/Art gallery		1345	Mount Pleasant	3L	4 Years
LS0029	Bushbury Youth & Community Centre		380	Northwood Park Road	3L	4 Years
LS0030	Central Baths		2531	Bath Avenue	3L	4 Years
LS0032	Scotlands Adventure Playground		180	Chesterton Road	3L	4 Years
LS0034	Daisy Bank Youth & Community Centre		528	Ash Street	3L	4 Years
LS0040	West Park Bowling Pavilion		73	Park Crescent	3L	4 Years
LS0045	Art Gallery (Wolverhampton)		3598	Lichfield Street	3L	4 Years
LS0096	West Park - Conservatory			Park Road West	3L	4 Years
LS0096	West Park - Kingsland Lodge			Park Road West	3L	4 Years
LS0096	West Park - Southgate Lodge			Park Road West	3L	4 Years
LS0096	West Park - Tea Rooms			West Park	3L	4 Years
LS0096	West Park - Enterprise Depot			Park Road West	3L	4 Years

LS0096	West Park - Tennis Pavilion			opp.Lansdowne Rd	3L	4 Years
LS0097	Fowlers Park Changing Rooms	345		Nine Elms Lane	3L	4 Years
LS0106	Rocket Pool Youth Centre	250		Rocket Pool Drive	3L	4 Years
LS0107	Mirage Youth Club	282		Howland Close	3L	4 Years
LS0117	Newbridge Rec. Ground Changing Rooms	214		New Road	3L	4 Years
LS0148	Peach Tree	223		Old Fallings Crescent	3L	4 Years
LS0245	Park Village Youth & Activities Centre	396		Park Lane	3L	4 Years
LS0268	Pendeford Youth Office (Rhythm Tree)	93		Marsh Lane	3L	4 Years
LS0320	Priory Green Community Centre	222		Whitburn Close	3L	4 Years
LS0323	East Park Library	279		Hurstbourne Crescent	3L	4 Years
LS0325	Springvale Library	249		Bevon Avenue	3L	4 Years
LS0328	Bantock House Museum	1244		Finchfield Road	3L	4 Years
LS0352	Duke Street Youth Club	169		Warwick Street	3L	4 Years
LS0353	Springfield Youth Centre	566		Grimstone Street	3L	4 Years
LS0354	Eastfield Youth & Community Centre	578		Colliery Road	3L	4 Years
LS0378	Low Hill Youth Resource Centre	372		Fifth Avenue	3L	4 Years
LS0420	Phoenix Adventure Playground	184		Cockshutts Lane	3L	4 Years
LS0421	Dungeon Project	260		Chervil Rise	3L	4 Years
LS0434	Collingwood Library	66		24 The Broadway	3L	4 Years
LS0469	Bert Williams Leisure Centre			Nettlefolds Way	3L	4 Years
MS0015	South West Constituency Office (Elms)	150		The Elms Resource Centre	3L	4 Years
RS0004	Culwell Street Depot	5500		Culwell Street	3L	4 Years
SS0004	Barnhurst Family Day Centre	465		Grangefield Close	3L	4 Years
SS0005	Blakenhall House Resource Centre	1527		Haggar Street	3L	4 Years
SS0011	EKTA Centre	307		Mander Street	3L	4 Years
SS0013	Croft Resource Centre. The	425		Greencroft	3L	4 Years
SS0022	Stowheath Adult Training Centre	1708		Stowheath Lane	3L	4 Years
SS0023	Underhill House A.P.H	1476		Underhill Lane	3L	4 Years
SS0024	Warstones Resource Centre	2014		Warstones Drive	3L	4 Years
SS0033	Corner House	590		Dunstall Road	3L	4 Years
SS0035	Stowheath Childrens Resource Centre	449		47 Stowheath Lane	3L	4 Years

SS0039	Neville Garratt Centre	640	Bell Street	3L	4 Years
SS0047	Oxley Adult Training Centre	1886	Probert Road	3L	4 Years
SS0049	South East Outreach Offices(Cullwick St)	147	2-4 Cullwick Street	3L	4 Years
SS0056	Recovery House	113	46a Second Avenue	3L	4 Years
SS0057	Oxley Moor House	223	Probert Road	3L	4 Years
SS0060	South West Locality Team (Pendeford CTO)	562	86 Ryefields	3L	4 Years

Provisional List for 4 Yearly Inspection – 4L

DS0007	Wholesale Market	5585	Hickman Avenue	4L	4 Years
ED0004	Ashmore Park Nursery School	474	Griffiths Drive	4L	4 Years
ED0017	Christ Church C.E. Junior School	1251	Woodcote Road	4L	4 Years
ED0018	Claregate Primary School	1975	Chester Avenue	4L	4 Years
ED0034	East Park Primary School	4909	Hollington Road	4L	4 Years
ED0039	Elston Hall Primary School	3790	Stafford Road	4L	4 Years
ED0049	Green Park School (Willows Campus)	5039	Green Park Avenue	4L	4 Years
ED0073	Fallings Park Primary School	3678	Old Fallings Lane	4L	4 Years
ED0081	Penn Fields School (Former)	1774	Birches Barn Road	4L	4 Years
ED0082	Penn Hall School	3939	Vicarage Road	4L	4 Years
ED0089	Rake Gate Primary School	2639.7	Sandwell Road	4L	4 Years
ED0099	St. Bartholomew's C.E. Primary School	1632	Sedgley Road	4L	4 Years
ED0101	Bilston Nursery School Children's Centre	787	Wolverhampton Street	4L	4 Years
ED0103	St. Jude's C.E. Primary School (Jun. site)	1209	Paget Road	4L	4 Years
ED0104	Bilston C.E. Primary School	1385	Albany Crescent	4L	4 Years
ED0105	St. Luke's C.E. (Aided) Primary School	3080.5	Park Street South	4L	4 Years
ED0111	St. Michael's R.C. Primary School	1803	Telford Gardens	4L	4 Years
ED0119a	Stowheath Primary School	4010	Hill Road	4L	4 Years
ED0120a	Stowlawn Primary (Willows Campus)	1487	Green Park Avenue	4L	4 Years
ED0122	Tettenhall Wood School	1182	School Road	4L	4 Years
ED0126	Trinity C.E. Primary School	2778	Longford Road	4L	4 Years
ED0127	Berrybrook Primary School	2521	Greenacres Avenue	4L	4 Years
ED0129	Valley Park Campus	3282	Cromer Gardens	4L	4 Years
ED0131	Warstones Primary School	3638	Warstones Road	4L	4 Years
ED0134	Edward the Elder Primary (W/field V)	1386	Lichfield Road	4L	4 Years
ED0137	Westacre Infants School	1580	Finchfield Hill	4L	4 Years
ED0142	Windsor Nursery School	882	Windsor Road	4L	4 Years
ED0145	Wodensfield Primary School	2797	Woden Avenue	4L	4 Years
ED0152	Adult Education (Foyer Building)	2000	Old Hall Street/St.Georges Pde	4L	4 Years
ED0161	Holy Trinity R.C. Primary School & Nursery	1327	Fraser Street	4L	4 Years

ED0171	Bingley Children's & Enterprise Centre	880	Norfolk Road	4L	4 Years
ED0172	Short Break Learning Disabilities	73	2 Swan Bank	4L	4 Years
ED0180	Whitmore Reans Children's Centre	855	Landsdowne Road	4L	4 Years
EH0004	Danescourt Cemetery	184	Wergs Road	4L	4 Years
EH0005	Hall Green Cemetery	205	Hall Green Street	4L	4 Years
EH0007	Penn Cemetery	161	Vicarage Road	4L	4 Years
EP0032	Adult and Community Records	431	28-29 Fordhouse Rd Ind Est	4L	4 Years
EP0040	WCityStop.info	166	Unit 95A Mander Centre,	4L	4 Years
EP0190	North East Constituency Office (Shaw Rd)	176	6 Shaw Park Business Village	4L	4 Years
EP0198	Upper Pendeford Farm	564	Wobaston Road	4L	4 Years
EP0230	Molineux House Hotel (Archives Library)	2121	Molineux Street	4L	4 Years
EP0248	Archives Library (former)	500	Netto Building	4L	4 Years
FG0009	Council Tax Office	681	1st Floor, Sainsbury Building	4L	4 Years
HS0406	Bilston Town Hall	1858	Church Street	4L	4 Years
LS0009	Windsor Avenue Changing Rooms	360	Pinfold Lane	4L	4 Years
LS0017	Tettenhall Ranger Station (Office & Store)	49	Meadow View Terrace	4L	4 Years
LS0017	Tettenhall Ranger Station (Study Centre)	42	Meadow View Terrace	4L	4 Years
LS0027	Brickkiln Centre	358	Cherry Street	4L	4 Years
LS0036	Goldthorn Park Assembly Hall	136	Himley Crescent	4L	4 Years
LS0044	Wednesfield Library	222	Church Street	4L	4 Years
LS0105	Lanesfield Youth & Community Centre	264	Ward Grove	4L	4 Years
LS0264	Warstones Library	245	Pinfold Grove	4L	4 Years
LS0268	Pendeford Youth Club (White bldg)	257	Marsh Lane	4L	4 Years
LS0286	Lunt Youth & Community Centre	610	Lunt Road	4L	4 Years
LS0321	Portobello Community Centre	301	Hill Road	4L	4 Years
LS0348	Penn Library	261	Coalway Avenue	4L	4 Years
LS0392	Tettenhall Wood Institute	466	Wood Road	4L	4 Years
LS0473	Blakenhall Community & Healthy Living Ctr.	1000	Bromley Street	4L	4 Years
MS0010	West Midlands Pensions Fund	1673	5th Fl. Mander House	4L	4 Years
MS0012	Slade Rooms	1575	32-40 Broad Street	4L	4 Years
MS0013	Epic Youth Cyber Café	321	11-15 Lichfield Street	4L	4 Years
RS0001	Civic Centre	42693	St. Peters Square	4L	4 Years

RS0003	Hickman Avenue - Enterprise Depot	8280	1	Chillington Fields	4L	4 Years
SS0003	Albert Road Centre (A41)	1264	25-38	Albert Road	4L	4 Years
SS0009	Sweetman Street Bungalow's	507		Sweetman Street	4L	4 Years
SS0019	Nelson Mandela House	1383		Whitburn Close	4L	4 Years
SS0029	Duke Street Bungalow's	600	21-25	Duke Street	4L	4 Years
SS0034	Blakenhall Family Resources Centre	728		Derry Street	4L	4 Years
SS0037	Merry Hill House A.P.H.	1277		Langley Road	4L	4 Years
SS0063	Red Gables	534	83	Compton Road	4L	4 Years

D. KEY PERFORMANCE INDICATORS

1 Proposed Key Performance Indicators

- 1.1 The Council is committed to continuous improvement and will utilise a suite of key performance indications (KPIs) to measure the progress of the Supplier over the duration of the contract. Performance against KPIs will be reviewed regularly by the parties, as set out in the Specification.
- 1.2 The Supplier will be required to provide information to demonstrate progress against KPIs. Success by reference to KPIs will be achieved by all parties working together to identify efficiencies in both process and working methods.
- 1.3 This will incorporate regular meetings of the Council and Supplier representatives to identify difficulties, review methods of working and improve process and efficiencies of working. A formal log must be kept of the positive decisions made and implemented.

KPI's –

- a) The careful planning, by the Contractor, with the agreement of WCC, of the testing workload across the year. All to ensure continuity of work for both the WCC staff and the contractors operatives. The KPI will be to plan all the works given out be WCC to ensure a constant and steady flow of testing results back to WCC.**(extent 100%) failure to do this on two consecutive months during any 12 month period will result in possible termination of the contract, with not compensation to the contractor.**
- b) Number of site inspections where there is no requirement for the Contractor to return to a site, due to missing information from the testing or a fault to the systems that did not exist prior to the testing works. (This will be judged solely by the WCC Contract administrator) **(extent: 95% or greater) failure to do this on two consecutive months during any 12 month period will result in possible termination of the contract, with no compensation to the contractor.**
- c) Time taken, by the contractor, to produce the results and the reports following the testing works on site.**(extent: 95% or greater) failure to do this on two consecutive months during any 12 month period will result in possible termination of the contract, with not compensation to the contractor.**
- d) Number of calls that require escalation to the contractors, contracts manager, as the initial contractor's operator is unable to answer the WCC callers questions **(extent: less than 95% of calls to be dealt with first time)**
- e) Number of call not responded to by the Contractor's contracts manager, within a 2 hour period **(extent 100%) failure to do this on two consecutive months**

during any 12 month period will result in termination of the contract, with not compensation to the contractor.

- f) The number of appointments that are missed or have to be rearranged by the contractor. (This will be judged solely by the WCC Contract administrator) **(extent: 95% or greater) failure to do this on two consecutive months during any 12 month period will result in possible termination of the contract, with no compensation to the contractor.**

- g) The number of “Near Misses” or “Dangerous Occurrence’s”, by the contractor or their, suppliers, operatives or sub-contractors, recorded by WCC. **(extent 100%) failure will be if these occur on two consecutive months during any 12 month period will result in termination of the contract, with not compensation to the contractor.**

PART F - SCHEDULE OF RATES

The following schedule is to be fully priced and the appropriate values incorporated in the tender submission; all prices are to exclude VAT

No minimum or maximum order quantities or values apply to this contract; prices must therefore reflect this stipulation.

<u>Schedule Of Rates</u>		<u>£/m²</u>		<u>Anticipated Man-hours</u>
Price per square metre floor area for Electrical Testing and Inspection inclusive of all management, reporting, drawing production, software and equipment for the following:-				
1-	Buildings not exceeding 250 m2	£	/ m ²	hrs
2-	Buildings over 250 m2, not exceeding 500 m2	£	/ m ²	hrs
3-	Buildings over 500 m2, not exceeding 1000 m2	£	/ m ²	hrs
4-	Buildings over 1000 m2, not exceeding 2500 m2	£	/ m ²	hrs
5-	Buildings over 2500 m2, not exceeding 5000 m2	£	/ m ²	hrs
6-	Buildings over 5000 m2, not exceeding 7500 m2	£	/ m ²	hrs
7-	Buildings over 7500 m2, not exceeding 10000 m2	£	/ m ²	hrs
8-	Buildings over 10000 m2, not exceeding 20000 m2	£	/ m ²	hrs
9-	Buildings over 20000 m2, not exceeding 30000 m2	£	/ m ²	hrs
10-	Buildings over 30000 m2, not exceeding 40000 m2	£	/ m ²	hrs
11-	Buildings over 40000 m2	£	/ m ²	hrs

NOTES :-

The floor area is deemed to be the gross internal floor area (GIFA), as measured from the internal face of the external wall.

The measure provided by Wolverhampton City Council is indicative only. The contractor will be responsible for providing an accurate measure of the GIFA with the submitted invoice if considered to be at variance to that advised by Wolverhampton City Council.

MISCELLANEOUS ITEMS

External Items

External items such as floodlighting, amenity lighting, external power items fixed to the building structure are deemed included within the building square metre pricing structure, however remote supplies to external floodlighting, amenity lighting and external power supplies shall be priced as extra over per items as follows:-

Extra over for carrying out testing of remote externally supplied items on a per circuit basis up to 5 items per circuit.

£ / Circuit x100 £ -

Extra over for carrying out testing of remote externally supplied items on a per circuit basis up to 10 items per circuit.

£ / Circuit x100 £ -

Access Equipment and Plant Rates

All access plant, equipment and materials for working access up to 4m AFFL are to be included in the square meter rates, however special access requirements shall be priced as a cost in the document, as extra over items as follows:-

Extra over above for mobile tower hire erection and usage;

20 non consecutive days @ £ day rate x 20 £ -

Extra over above for manual scissor lift hire erection and usage;

10 non consecutive days @ £ day rate x10 £ -

Extra over above for powered scissor lift hire erection and usage;

10 non consecutive days @ £ day rate x10 £ -

Extra over above for powered cherry picker hire erection and usage including driver where required;

10 non consecutive days @ £ day rate x10 £ -

Out of Hours Rates per hour

Extra over above for carrying out testing out of 'normal hours', evenings, weekends and Bank Holidays

60 hours @ £ hourly rate x60 £ -

Extra over or reduction above for carrying out detailed inspection of wiring accessories in excess or reduction to 50% included for in tender rates above

1200 items @ £ rate x1200 £ -

Extra over or reduction above for carrying out ring circuit continuity or insulation resistance testing in excess or reduction to 33% included for in tender rates above

600 @ £ Per ring circuit continuity test. x600 £ -

600 @ £ Per insulation resistance test. x600 £ -

NOTIONAL AMOUNT FOR MISCELLANEOUS ITEMS CARRIED TO SUMMARY £ -

SUMMARY

£

NOTIONAL TENDER AMOUNT FOR TESTING FOR ONE YEAR

£ -

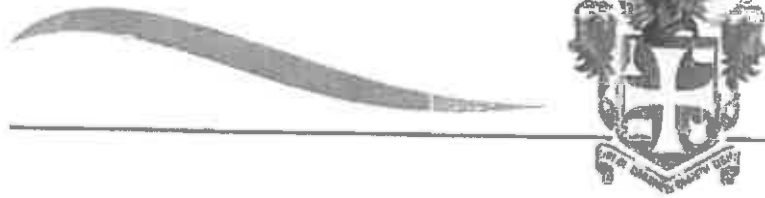
NOTIONAL AMOUNT FOR MISCELLANEOUS ITEMS

£ -

**TOTAL NOTIONAL AMOUNT FOR ONE YEAR TO BE USED FOR TENDER
EVALUATION PURPOSES
(40% OF MARKED EVALUATION)**

£ -

Wolverhampton
City Council



Term Contract

For Service and Repair Air
Conditioning and Air Handling
Units.

at Wolverhampton City Council
Buildings.

For Wolverhampton City Council

Contract No: AMP14 3027

JCT Contract

Between

Wolverhampton City Council (1)

And

Rentokil Initial Fire Service Ltd (2)

For the:

**Term Contract for Fire Warning and
Fire Safety Equipment, Servicing
and Maintenance.**



This contract has been amended from the original template.

MTC 2011
Measured Term Contract 2011

2011

MEASURED TERM CONTRACT



Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the 18th June. 2013

Between **The Employer** Wolverhampton City Council
of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RG

And **The Contractor** Rentokil Initial Fire Services Ltd.
(Company No. 07516736)⁽¹⁾
whose registered office is at 2 City Place Beehive Ring Road, Gatwick Airport, Gatwick, West
Sussex RH6 0HA.

⁽¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires Fire Warning and Fire Safety Equipment Servicing and maintenance and minor-works to be carried out in:
- Wolverhampton City Council Buildings (excluding Housing) within the area of the City of Wolverhampton ("the Contract Area") in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now It is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin

of Head of Service, Property Design and Commissioning, Corporate Services, Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Ltd

of Red Hill House, 227 London Road, Worcester, WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies¹³¹, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.
-
-

Article 8: Legal proceedings¹³¹

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

¹³¹ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

Note: An asterisk * indicates where selection has been or should have been made.

1 Properties and description of the types of work (First Recital)


-1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Council Buildings (Excluding Housing) within the area of the City of
Wolverhampton

-2 Description of the types of work for which Orders may be issued¹⁴:

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is
deleted, the relevant paragraph applies.)

Collaborative working	* Paragraph 1 applies
Health and safety	* Paragraph 2 applies
Cost savings and value improvements	* Paragraph 3 applies
Sustainable development and environmental considerations	* Paragraph 4 applies
Performance Indicators and monitoring	* Paragraph 5 applies
Notification and negotiation of disputes	* Paragraph 6 applies
Where paragraph 6 applies, the respective nominees of the Parties are	Employer's nominee  <u>Contractor's nominee</u>

¹⁴ Where the National Schedule of Rates is to apply (see items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

or such replacement as each Party may notify to the other from time to time

3 Contract Period^[5]
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be 4 years years

commencing on 1st April 2012

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9.3 to 9.8 apply.)^[6]

* Article 7 and clauses 9.3 to 9.8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2.4)

Minimum value of any one Order to be issued

£N/A (words N/A)

Maximum value of any one Order to be issued

£N/A (words N/A)

6 Orders – value of work to be carried out
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

* £300,000 (words Three Hundred Thousand Pounds) per annum

7 Orders – priority coding^[7]
(Clause 2.6)

As stated in the tender documents

8 Construction Industry Scheme (CIS)
(Clause 4.2)

The Employer at the commencement of the Contract Period

* is a 'contractor'

for the purposes of the CIS

^[5] The period is envisaged as normally being at least one year.

^[6] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].

^[7] To be completed if the Employer requires; as an example the code might be:

- 'A': response time to be 4 hours;
- 'B': to be commenced within 2 days;
- 'C': to be commenced within 14 days;
- 'D': to be commenced as agreed.

9 Progress payments
(Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for (if none is stated, it is £2,500.) **£N/A**

10 Responsibility for measurement and valuation
(Clause 5-2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * ~~The Contract Administrator shall measure and value all Orders/~~
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of £ _____ or more; the Contractor shall measure and value all other Orders/~~
- * The Contractor shall measure and value all Orders

11 Schedule of Rates
(Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

- * ~~the National Schedule of Rates/~~
- * the Schedule of Rates as priced in the tendered Schedule (Part E)
(Identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by * the addition

of the Adjustment Percentage, which is per cent

2 Where the Schedule of Rates is the National Schedule of Rates the version(s) identified opposite are to apply⁽¹⁾

- * ~~National Schedule of Rates (Building Works)/~~
- * ~~National Schedule of Rates (Access Audit)/~~
- * ~~National Schedule of Rates (Electrical Services in Buildings)/~~
- * ~~National Schedule of Rates (Mechanical Services in Buildings)/~~
- * ~~National Schedule of Rates (Painting and Decorating)/~~
- * ~~National Schedule of Rates (Roadworks)/~~
- * ~~National Housing Maintenance Schedule~~

3 Rates – Fluctuations

Clause 5-6-1
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * The tendered priced will apply for the period up to 31st March 2014. With effect from 1st April 2014, the prices will be adjusted by the percentage difference between BICS Mechanical and Electrical Cost Indices published by the Royal Institute of Chartered Surveyors for the third quarter immediately prior to the revision date and the third quarter previously published. applies

⁽¹⁾ Delete all versions that do not apply. See also footnote [4].

4 Basis and dates of revision

(Not applicable where the National Schedule of Rates applies)

Where clause 5-6-1 applies, the basis on which the Schedule of Rates is to be revised under clause 5-6-1-2 (If no basis is identified the rates remain fixed for all Orders.)

* is as follows/
* is set out in the following document

Where clause 5-6-1 applies, the dates as at which the Schedule of Rates is to be revised are (If no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)

12 Daywork
(Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Overheads and profit on Materials	<u>As stated in the tender documents per cent</u>
Overheads and profit on Plant, Services and Consumable Stores	<u>As stated in the tender document per cent</u>
Overheads and profit on Sub-Contractors	<u>As stated in the tender document per cent</u>

2 Revision of Schedule of Hourly Charges

Clause 5-6-3 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

* applies

The annual revision date is As stated in the tender document

The basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges¹⁰¹ is set out in the following document As stated in the tender document

13 Overtime work
(Clause 5-7)

The percentage addition in respect of overheads N/A inclusive rates as stated in tender

¹⁰¹ If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.



and profit on non-productive overtime rates is
(Not applicable where an inclusive rate for such
overtime is included in the Schedule of Hourly
Charges)

documents (out of hours call outs) per cent

14 Insurance

(Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

- | | | |
|----|--|-------------------------------------|
| ·1 | Insurance cover for any one occurrence or series of occurrences arising out of one event | <u>£5,000,000</u> |
| ·2 | Percentage to cover professional fees | <u>15 per cent</u> |
| ·3 | Annual renewal date of insurance as supplied by the Contractor | <u>to be supplied by Contractor</u> |
| ·4 | Terrorism Cover – details of the required cover
(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.) | <u>Pool Re Cover</u> |

15 Break Provisions – Employer or Contractor (Clause 7-1)

The period of notice, if less than 13 weeks, is 9 Months -weeks

16 Settlement of Disputes (Clauses 9-2, 9-3 and 9-4-1)

Adjudication⁽¹⁰⁾

The Adjudicator is none stated

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)⁽¹¹⁾

- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * constructionadjudicators.com⁽¹²⁾
- * Association of Independent Construction Adjudicators⁽¹³⁾
- * Chartered Institute of Arbitrators

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

Arbitration⁽¹⁴⁾

⁽¹⁰⁾ The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

⁽¹²⁾ constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

⁽¹¹⁾ Delete all but one of the nominating bodies asterisked.

⁽¹³⁾ Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

⁽¹⁴⁾ This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

Appointor of Arbitrator (and of any replacement)⁽¹⁴⁾
(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- President or a Vice-President:
* ~~Royal Institute of British Architects~~
* The Royal Institution of Chartered Surveyors
* ~~Chartered Institute of Arbitrators~~

⁽¹⁴⁾ Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 1 Wolverhampton City Council


(B) ~~by affixing hereto the common seal of the company/other body corporate~~

IN WITNESS whereof the parties hereto have executed the Agreement on the day and year first above written

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal

In the presence of

37813



 Signature ~~Director/Authorised Officer~~

 Signature ~~Company Secretary/Director~~



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Execution as a Deed

Executed as a Deed by the Contractor

namely 1 Rentokil Initial Fire Services Ltd.

(A) acting by a Director and the Company Secretary/two Directors of the company ^{2,3}

and

(Print name of signatory)

(Print name of signatory)

Signature Director

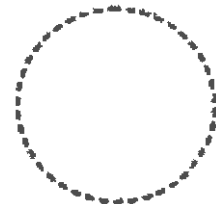
Signature Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

In the presence of

Signature Director

Signature Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company ^{2,5}



Signature Director

In the presence of

MTC 2011

Rentokil contract for Fire warning and Fire Safety Equipment Servicing and Main...456078921 06/12/2012

Witness' signature  (Print name) 

Witness' address 

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	<u>the Agreement, these Conditions, the completed Contractor Particulars, and the Schedule of Rates and all Sections of the Document.</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.

Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹¹⁴
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹¹⁴ Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ("legislation") is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1.7 This Contract shall be governed by and construed in accordance with the law of England.⁽¹⁷⁾

⁽¹⁷⁾ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a

handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (Item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (Item 7), each Order shall state a commencement date⁽¹⁰⁾ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator that does not arise from the Contractor's default),

⁽¹⁰⁾ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2.4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11
- 1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
 - 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within ~~6~~ 12 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project^[10] that comprises or includes work under an Order is notifiable:

- 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
- 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase^[11];
- 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
- 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 ·1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

[10] The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

[11] There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (Item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
 - 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
 - 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-6-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 if the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

the basis on which that sum has been calculated;

- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
- 3 if the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
- 4 if the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
- 5 If clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 ·1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as being authorised to do so.

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4-7
 - 1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4-6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4-7-1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

5-1 The term 'Variation' means:

- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
- 2 any other addition to, omission from or alteration of any Order; or
- 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 10).

Valuation – measurement

- #### 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- #### 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²⁴¹.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- #### 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²⁴¹ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6
- 1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
 - 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).
 - 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
 - 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
 - 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
 - 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7
- 1 For the purposes of this clause 5-7:
 - 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
 - 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).
 - 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8
- If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1** The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2** The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3** The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4**
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[223], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (Item 14-1) for any one occurrence or series of occurrences arising out of one event.^[223]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5** Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[223] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[223] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (Item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance^[24]: insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[25];

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);

(b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

^[24] The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

^[25] In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the Insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.^[26]
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-15-1, to an existing structure and/or its contents) caused by or resulting from terrorism.^[26]

Insurance of existing structures^[27]

- 6-7 -1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[28], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

- 6-8 -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

^[26] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.

^[27] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6^[24] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14-2) to cover professional fees)^[24] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
- 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13** -1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
- 2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

^[24] In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

disregarded in computing any amounts payable to the Contractor under this Contract.

- 3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
- 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
- 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 -1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (Item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 -1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.

- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6-15-2-2 and there is no requirement for cover under clause 6-15-3:
- 1 If work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-5-2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than ~~12 weeks~~ 9 Months notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes Insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes Insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an individual becomes Insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes Insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1-1 to 8-1-4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 -1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 -1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
 the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5
- 1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
 - 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 clause 8-9 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6
- The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7
- 1 If the Employer:
 - 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 Interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,
 the Contractor may give to the Employer a notice specifying the default a 'specified

default') or defaults.

- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 ·1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become Insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 if the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 ·1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.¹²⁰⁾

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.¹²¹⁾

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (Item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

¹²⁰⁾ See the Measured Term Contract Guide.

¹²¹⁾ Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference; and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all Information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all Information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



Members

British Property Federation Limited
Contractors Legal Grp Limited
Local Government Association
National Specialist Contractors Council Limited
Royal Institute of British Architects
The Royal Institution of Chartered Surveyors
Scottish Building Contract Committee Limited

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JCT Contract

Between

Wolverhampton City Council (1)

And

Electrotest Services Ltd (2)

For:

Portable Appliance
Testing



This contract has been amended from the original template.

MTC 2011
Measured Term Contract 2011

2011

MEASURED TERM CONTRACT

Measured Term Contract (MTC)**Appropriate for use:**

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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Articles of Agreement

This Agreement is made the 15th January 20 13

Between **The Employer** Wolverhampton City Council
of Civic Centre St Peter's Square, Wolverhampton, WV1 1RL

And **The Contractor** Electrotest Services Ltd
(Company No. 02666115)⁽¹⁾
whose registered office is at Energy House, Burntwood Business Park, Attwood Road,
Burntwood, Staffordshire, WS7 3GJ

⁽¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires ~~maintenance and minor works~~ Portable Appliance Testing to be carried out in:
- Wolverhampton City Council with in the area of the City of Wolverhampton ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions identified in the Contract Particulars apply;

Articles

Now It is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (Item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to Items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Ian Gladwin

of Head of Service, Property Design & Commissioning, City Services, Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL.

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3-10-1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

Halcrow Group Ltd

of Red Hill House, 227 London Road, Worcester, WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9-2.

Article 7: Arbitration

Where Article 7 applies⁽²⁾, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings⁽²⁾

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

⁽²⁾ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

1 Properties and description of the types of work (First Recital)

- 1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Council, within the area of the City of Wolverhampton

- 2 Description of the types of work for which Orders may be issued¹⁹:

Portable Appliance Testing

2 Supplemental Provisions (Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

Collaborative working	* Paragraph 1 applies
Health and safety	* Paragraph 2 applies
Cost savings and value improvements	* Paragraph 3 applies
Sustainable development and environmental considerations	* Paragraph 4 applies
Performance Indicators and monitoring	* Paragraph 5 applies
Notification and negotiation of disputes	* Paragraph 6 applies
Where paragraph 6 applies, the respective nominees of the Parties are	Employer's nominee XXXXXXXXXX Contractor's nominee XXXXXXXXXX

¹⁹ Where the National Schedule of Rates is to apply (see Items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in Item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

Where clause 5-6-1 applies, the dates as at which the Schedule of Rates is to be revised are
 (if no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)

12 Daywork

(Clauses 5-4, 5-6-3 and 5-6-4)

-1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the Invoice price of non-labour items are as follows:

Overheads and profit on Materials as stated in the tender documents per cent

Overheads and profit on Plant, Services and Consumable Stores as stated in the tender documents per cent

Overheads and profit on Sub-Contractors as stated in the tender documents per cent

-2 Revision of Schedule of Hourly Charges

Clause 5-6-3 * applies
 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

The annual revision date is as stated in the tender documents

The basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges¹⁵ * is set out in the following document as stated in the tender documents

13 Overtime work (Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is inclusive rates as stated in tender documents (out of hours call outs) per cent
 (Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

14 Insurance (Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

-1 Insurance cover for any one occurrence or series of occurrences arising out of one event £5,000,000

¹⁵ If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

·2	Percentage to cover professional fees	<u>15 per cent</u>
·3	Annual renewal date of insurance as supplied by the Contractor	<u>to be supplied by the contractor</u>
·4	Terrorism Cover – details of the required cover (State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)	<u>Pool re cover</u>
15	Break Provisions – Employer or Contractor (Clause 7-1)	
	The period of notice, if less than 13 weeks, is	<u>9 Months -weeks</u>
16	Settlement of Disputes (Clauses 9-2, 9-3 and 9-4-1)	
	Adjudication^[14]	The Adjudicator is <u>None stated</u>
	Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established) ^[11] (Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)	<ul style="list-style-type: none"> * Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * constructionadjudicators.com^[12] * Association of Independent Construction Adjudicators^[13] * Chartered Institute of Arbitrators
	Arbitration^[14]	
	Appointor of Arbitrator (and of any replacement) ^[14] (If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)	<ul style="list-style-type: none"> President or a Vice-President: * Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * Chartered Institute of Arbitrators

^[11] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

^[12] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

^[13] Delete all but one of the nominating bodies asterisked.

^[13] Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

^[14] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

^[14] Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the Company Secretary or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the Company Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to Company Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "Company" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 1 Wolverhampton City Council

(B) ~~by affixing hereto the common seal of the company/other body corporate~~

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written

12/13

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council



In the presence of

Signature Authorised Officer/Director

Signature Company Secretary/Director



{Common seal of company}

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Executed as a Deed by the Contractor

Execution as a Deed

namely ¹ Electrotest Services Ltd

(A) acting by a Director and the Company Secretary/two Directors of the company ^{2,3}

_____ and _____
 (Print name of signatory)

 Signature Director

_____ and _____
 (Print name of signatory)

 Signature Company Secretary/Director

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.



Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions <u>the completed Contract Particulars</u> and the Schedule of Rates and all Sections in this Document.
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (Item 3).
Contractor:	the person named as Contractor in the Agreement.

Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹¹⁰
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹¹⁰ Amend as necessary if different Public Holidays are applicable.

Statutory Requirements: any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.

Statutory Undertaker: any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.

Terrorism Cover: see clause 6-6.

Variation: see clause 5-1.

VAT: Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

1-7 This Contract shall be governed by and construed in accordance with the law of England.⁽¹⁷⁾

⁽¹⁷⁾ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's Instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a

handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (Item 7), each Order shall state a commencement date¹⁴⁴ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8 ·1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
- 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10 ·1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
- 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator that does not arise from the Contractor's default),

¹⁴⁴ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 12.6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue Instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project^[10] that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase^[11];
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

[10] The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

[11] There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
 - 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
 - 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-6-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 If the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- the basis on which that sum has been calculated;
- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3 if the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
 - 4 If the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
 - 5 if clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments -- final date and amount

- 4-6 ·1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as being authorised to do so.

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4-7
- 1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4-6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4-7-1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

- 5-1** The term 'Variation' means:
- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
 - 2 any other addition to, omission from or alteration of any Order; or
 - 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2** Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 10).

Valuation – measurement

- 5-3**
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4**
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²⁰.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5**
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²⁰ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6 -1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
- 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).
- 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
- 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
- 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
- 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7 -1 For the purposes of this clause 5-7:
- 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
- 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (Item 13).
- 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8 If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's Insurance of his liability

- 6-4
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[22], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (Item 14-1) for any one occurrence or series of occurrences arising out of one event.^[23]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[22] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[23] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (Item 14).

damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

- All Risks Insurance¹²⁴:** insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:
- (a) property which is defective due to:
 - (i) wear and tear,
 - (ii) obsolescence, or
 - (iii) deterioration, rust or mildew;
 - (a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective¹²⁵;
 - (b) loss or damage caused by or arising from:
 - (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
 - (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
 - (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);
- (b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

¹²⁴ The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by Insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

¹²⁵ In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.^[24]
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-15-1, to an existing structure and/or its contents) caused by or resulting from terrorism.^[25]

Insurance of existing structures^[27]

- 6-7** -1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[28], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of insurance

- 6-8** -1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 If the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

^[24] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.
^[27] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

- 6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-8⁽²⁾ for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (Item 14-2) to cover professional fees)⁽²⁾ up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (inter alia) All Risks insurance with cover and in amounts no less than those specified in clause 6-9; and
- 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

- 6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13 -1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
- 2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

⁽²⁾ In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

- disregarded in computing any amounts payable to the Contractor under this Contract.
- 3 After any inspection required by the Insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
 - 4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
 - 5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
 - 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 -1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (Item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 -1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

- those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.
- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6-15-2-2 and there is no requirement for cover under clause 6-15-3:
- 1 if work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-5-2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than 9 months' 43-weeks' notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (Item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an individual becomes insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1-1 to 8-1-4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 ·1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 ·1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,

the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5
- 1 If the Contractor is insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
 - 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3 As from the date the Contractor becomes insolvent, whether or not the Employer has given such notice of termination:
 - 1 clause 8-9 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6
- The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7
- 1 If the Employer:
 - 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,

the Contractor may give to the Employer a notice specifying the default a 'specified

- default') or defaults.
- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
 - 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 If the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 If the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[90]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.^[91]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (Item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

[90] See the Measured Term Contract Guide.

[91] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference;
and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.



Schedule Supplemental Provisions

(Sixth Recital)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations



- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.



Members

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National Specialist Contractors Council Limited
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The Royal Institution of Chartered Surveyors
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SWEET & MAXWELL



THOMSON REUTERS



Contract No: AMP14 3027

For Wolverhampton City Council

at Wolverhampton City Council
Buildings.

For Boiler Servicing and Repairs

Term Contract



MEASURED TERM CONTRACT

2011

MTC 2011 Measured Term Contract 2011

This contract has been amended from the original template.



Measured Term Contract (MTC)

Appropriate for use:

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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The 2011 Edition is intended for use following the implementation of the Local Democracy, Economic Development and Construction Act 2009 on 1 October 2011.

For details of 2011 Edition changes, see the Measured Term Contract Guide (MTC/G).

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Schedule Supplemental Provisions



Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

11

And

The Contractor RMC Mechanical Services Ltd,

(Company No. 05470580)^m

whose registered office is at Unit 1, Steelhouse Lane, Wolverhampton WV2 2AF

Between

The Employer Wolverhampton City Council

of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

Articles of Agreement

This Agreement is made the 26th May 2015.
2nd June

Recitals

Whereas

First The Employer requires boiler servicing and repairs ~~maintenance and minor works~~ to be carried out in:

Wolverhampton City Council public buildings (‘the Contract Area’) in accordance with the details set out or referred to in the Contract Particulars;

Second the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;

Third the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;

Fourth the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;

Fifth the Contractor has supplied to the Employer the Contractor’s safety policy complying with Statutory Requirements, a copy of which is annexed;

Sixth the Supplemental Provisions identified in the Contract Particulars apply;



Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Chite East

of Head of Service, Facilities Management, City Assets, Place Directorate, Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3-10-1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

CH2M Limited

of Red Hill House, 227 London Road, Worcester, WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9-2.

Article 7: Arbitration

Where Article 7 applies, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9-3 to 9-8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9-3 to 9-8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1-7).

Contract Particulars

Note: An asterisk * indicates where selection has been or should have been made.

1 Properties and description of the types of work (First Rectal)

-1 List of properties in the Contract Area in respect of which Orders may be issued:

Wolverhampton City Council Buildings (excluding housing) within the area of the City of

Wolverhampton

-2 Description of the types of work for which Orders may be issued:

Boiler servicing and repairs

2 Supplemental Provisions (Sixth Rectal and Schedule)

Supplemental Provisions
(Where neither entry against an item below is deleted, the relevant paragraph applies.)

* Paragraph 1 Collaborative working
applies/does not apply

* Paragraph 2 Health and safety
applies/does not apply

* Paragraph 3 Cost savings and value improvements
applies/does not apply

* Paragraph 4 Sustainable development and environmental
considerations
applies/does not apply

* Paragraph 5 Performance indicators and monitoring
applies/does not apply

* Paragraph 6 Notification and negotiation of disputes
applies/does not apply

Where paragraph 6 applies, the respective
Employer's nominee
nominees of the Parties are

Where the National Schedule of Rates is to apply (see items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

Contractor's nominee

or such replacement as each Party may
 notify to the other from time to time

3 Contract Periods (Article 1 and clause 7-1)
 Subject to clause 7-1, the Contract Period will be four years
 commencing on 1st June 2015

4 Arbitration (Article 7)

(If neither entry is deleted, Article 7 and clauses 9-3 to 9-8 do not apply, if disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9-3 to 9-8 apply.)
 Article 7 and clauses 9-3 to 9-8 (Arbitration) apply

5 Orders – minimum and maximum value (Clause 2-4)

Minimum value of any one Order to be issued
 £10.00 (words ten pounds)

Maximum value of any one Order to be issued
 £N/A (words N/A)

6 Orders – value of work to be carried out (Clause 2-5)

Approximate anticipated value of work to be carried out under this Contract

* £139,000 (words One hundred and thirty nine thousand pounds) per annum

7 Orders – priority coding (Clause 2-6)

as stated in the tender documents

8 Construction Industry Scheme (CIS) (Clause 4-2)

The Employer at the commencement of the Contract Period

191 The period is envisaged as normally being at least one year.
 192 On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
 193 To be completed if the Employer requires; as an example the code might be:
 • 'A': response time to be 4 hours;
 • 'B': to be commenced within 2 days;
 • 'C': to be commenced within 14 days;
 • 'D': to be commenced as agreed.

* is a contractor for the purposes of the CIS

Progress payments (Clause 4-3-1)

Estimated value of an Order above which progress payments can be applied for (if none is stated, it is £2,500.)

FN/A

10 Responsibility for measurement and valuation (Clause 5-2)

* The Contract Administrator shall measure and value all Orders selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value each Order with an estimated value of

* the Contractor shall measure and value all Orders or more; the Contractor shall measure and value all other Orders

* The Contractor shall measure and value all Orders

11 Schedule of Rates (Clauses 5-3, 5-6-1 and 5-6-2)

1 The Schedule of Rates is

* the Schedule of Rates is the schedule of rates as priced in the tendered Schedule (Part E) (Identify the Schedule of Rates to be used)

* subject to adjustment of the rates listed in that Schedule by NOT the addition/ the deduction applicable

of the Adjustment Percentage, which is per cent

2 Not applicable.

3 Rates – Fluctuations

* Clause 5-6-1 (Unless 'applies' is deleted, the clause shall be deemed to apply.) applies

4 Basis and dates of revision

(Not applicable where the National Schedule of Rates applies)

* The basis on which the Schedule of Rates is to be revised under clause 5-6-1-2

(if no basis is identified the rates remain fixed for all Orders.)

* The tendered prices will apply for the period up to 31 May 2016. With effect from 1 June 2016 and at subsequent annual intervals, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institution of Chartered Surveyors for the third quarter immediately prior to the revision date and the third quarter previously

published.

Where clause 5-6-1 applies, the dates as which the Schedule of Rates is to be revised are
 (if no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)
 The tendered prices will apply for the period up to 31 May 2016. With effect from 1 June 2016 and at subsequent annual intervals, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institution of Chartered Surveyors for the third quarter immediately prior to the revision date and the third quarter previously published.

12

Daywork

(Clauses 5-4, 5-6-3 and 5-6-4)

1. Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Overheads and profit on Materials

as stated in the tender documents per cent

Overheads and profit on Plant, Services and Consumable Stores

as stated in the tender documents per cent

Overheads and profit on Sub-Contractors

as stated in the tender documents per cent

2.

Revision of Schedule of Hourly Charges

Clause 5-6-3
 (Unless 'applies' is deleted, the clause shall be deemed to apply.)

applies

The annual revision date is

The basis of revision of hourly charges, if not set out in the Schedule of Hourly Charges² is set out in the following document as stated in the tender documents

13

Overtime work
 (Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)
 The percentage addition in respect of overheads and profit on non-productive overtime rates is not applicable Inclusive rates as stated in the tender documents (out of hours call outs) per cent

14

Insurance

² If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.

(Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

-1 Insurance cover for any one occurrence or series of occurrences arising out of one event
 £10,000,000.00

-2 Percentage to cover professional fees
 20 percent

-3 Annual renewal date of insurance as supplied by the Contractor
 to be supplied by the contractor

-4 Terrorism Cover – details of the required cover
 (State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)

15 Break Provisions – Employer or Contractor (Clause 7-1)
 The period of notice, if less than 13 weeks, is 9 months weeks

16 Settlement of Disputes (Clauses 9-2, 9-3 and 9-4-1)
 The Adjudicator is none are stated

Adjudication⁽¹⁶⁾

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)⁽¹⁷⁾
 (Where an Adjudicator is not named and a nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)
 * The Royal Institute of British Architects
 * The Royal Institution of Chartered Surveyors
 * constructionadjudicators.com
 * Association of Independent Construction Adjudicators⁽¹⁸⁾
 * Chartered Institute of Arbitrators

Arbitration⁽¹⁹⁾

Appointor of Arbitrator (and of any replacement)⁽²⁰⁾
 * * *
 * The Royal Institute of British Architects
 * The Royal Institution of Chartered Surveyors
 * Chartered Institute of Arbitrators
 be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

(16) The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.
 (17) constructionadjudicators.com is a trading name of Contractors Legal Gp Ltd.
 (18) Delete all but one of the nominating bodies asterisked.
 (19) Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.
 (20) This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.
 Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.



Notes on Execution as a Deed

1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.

2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:

- (A) through signature by a Director and the Company Secretary or by two Directors;
- (B) by affixing the company's common seal in the presence of a Director and the Company Secretary or of two Directors or other duly authorised officers; or
- (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).

3. Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.

- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the Company Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to Company Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "Company" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for single officer companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

Executed as a Deed by the Employer

namely 'Wolverhampton City Council

(B) by affixing hereto the common seal of the company/other body corporate

in the presence of

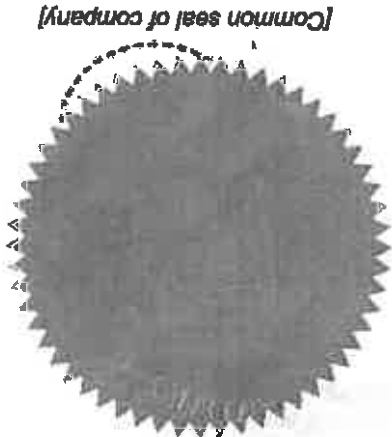
IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council in the presence of.

11/7/15

Signature Authorised Officer/Director

Signature Company Secretary/Director



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Execution as a Deed

Executed as a Deed by the Contractor

namely 'RMC Mechanical Services Ltd.

(A) acting by a Director and the Company Secretary/two Directors of the company 2,

(Print name of signatory)

Signature
Director

and

(Print name of signatory)

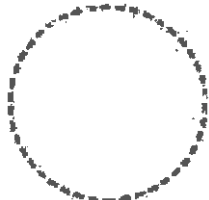
Signature
Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate 2,

In the presence of

Signature
Director

Signature
Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director of the company 2,

Signature
Director

In the presence of

Witness' signature
(Print name)

Witness' address

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

1-1

Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

Word or phrase

Meaning

Adjusticator: an individual appointed under clause 9-2 as the Adjusticator.

Adjustment Percentages: the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).

Agreement: the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.

All Risks Insurance: see clause 6-6.

Arbitrator: an individual appointed under clause 9-4 as the Arbitrator.

Article: an article in the Agreement.

Business Day: any day which is not a Saturday, a Sunday or a Public Holiday.

CDM Co-ordinator: the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.

CDM Regulations: the Construction (Design and Management) Regulations 2007.

Conditions: the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.

Construction Industry Scheme (or 'CIS'): the Construction Industry Scheme under the Finance Act 2004.

Construction Phase Plan: the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.

Contract Administrator: the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.

Contract Area: see the First Recital.

Contract Documents: the Agreement, these Conditions, the completed Contractor Particulars, Schedule of Rates, and all sections of this Document, and the Schedule of Rates.

Contract Particulars: the particulars in the Agreement and there described as such, as completed by the Parties.

Contract Period: subject to clause 7-1, the period stated in the Contract Particulars (Item 3).

Contractor:

the person named as Contractor in the Agreement.

<p>Contractor's Persons: the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.</p>	<p>Employer: the person named as Employer in the Agreement.</p>
<p>Employer's Persons: all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.</p>	<p>Employer's Persons: all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.</p>
<p>Excepted Risks: see clause 6-6.</p>	<p>Excepted Risks: see clause 6-6.</p>
<p>Insolvent: see clause 8-1.</p>	<p>Insolvent: see clause 8-1.</p>
<p>Interest Rate: a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.</p>	<p>Interest Rate: a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.</p>
<p>Joint Names Policy: see clause 6-6.</p>	<p>Joint Names Policy: see clause 6-6.</p>
<p>National Schedule of Rates: the National Schedule of Rates (Building Works) and/or such alternative version of the National Schedule of Rates (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).</p>	<p>National Schedule of Rates: the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.</p>
<p>Order Completion Date: see clause 2-11.</p>	<p>Order: the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.</p>
<p>Parties: the Employer and the Contractor together.</p>	<p>Parties: the Employer and the Contractor together.</p>
<p>Party: either the Employer or the Contractor.</p>	<p>Party: either the Employer or the Contractor.</p>
<p>Principal Contractor: the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.</p>	<p>Principal Contractor: the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.</p>
<p>Public Holiday: Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday.</p>	<p>Public Holiday: Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday.</p>
<p>Recitals: the recitals in the Agreement.</p>	<p>Recitals: the recitals in the Agreement.</p>
<p>Schedule of Hourly Charges: see clause 5-4-1.</p>	<p>Schedule of Hourly Charges: see clause 5-4-1.</p>
<p>Schedule of Rates: the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.</p>	<p>Schedule of Rates: the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.</p>
<p>Scheme: Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.</p>	<p>Scheme: Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.</p>
<p>Site: the building(s) and/or land within the Contract Area to which an Order relates.</p>	<p>Site: the building(s) and/or land within the Contract Area to which an Order relates.</p>
<p>Site Materials: all unboxed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.</p>	<p>Site Materials: all unboxed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.</p>

Specified Perils: see clause 6-6.

Statutory Requirements: any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.

Statutory Undertaker: any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.

Terrorism Cover: see clause 6-6.

Variation: see clause 5-1.

VAT: Value Added Tax.

1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

1-3 in the Agreement and these Conditions, unless the context otherwise requires:

- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
- 2 the singular includes the plural and vice versa;
- 3 a gender includes any other gender;
- 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
- 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

1-6 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.

2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.



171 Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Applicable law

1-7 This Contract shall be governed by and construed in accordance with the law of England.¹⁷¹

Section 2 Carrying out Work

Contractor's obligations

2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

2-2 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.

2-2-1 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.

2-2-2 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.

2-2-3 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:

- 1 provide all the labour, materials and goods necessary;
- 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
- 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare.

and for the purposes of this Contract shall take all reasonable steps to encourage Contractors Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

2-3 The Employer reserves the right:

- 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
- 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.

2-2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator, the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.

2-3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.

2-4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.

2-5 The Employer shall notify the Contractor of the then current value of any materials or goods

or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

6- Metals and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date¹⁰ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

2-8 -1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.

2-2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

2-10 -1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.

-2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any

Instructed on the Contract Administrator that does not arise from the Contractor's default), the Contractor Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

2-11 1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').

2-12 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

2-12 Any defects, shrinkages or other faults which appear within 12 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.



Section 3 Control of Work

Assignment

3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

3-4 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the Contractor to removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.

2- If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator, the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

3- To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

3-5 1- The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.

2- The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.

3- No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.

4- The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

3-6 1- The Contract Administrator may cancel any Order.

2- On the cancellation of an Order:

1- the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and
-2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with Instructions

3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project² that comprises or includes work under an Order is notifiable:
-1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;

-2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
-1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
-2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase²;

-3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
-4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor is still in the post would then have had power under this Contract to do so.
-2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

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Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.

Section 4 Payment

VAT

4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

4-3 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):

- 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
- 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.

2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.

3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-6-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:

1 the due date shall be 65 days from the Order Completion Date;

2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;

3 if the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

4-5 Where the Contractor is to value an Order pursuant to clause 5-2:

1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- 2- subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3- If the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order.
 - 4- If the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1- the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2- the due date shall be 35 days from the date of expiry of the notice period; and
 - 3- the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation; - 5- If clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.
- Payments – final date and amount**
- 4-6 -1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
 - 2- Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
 - 3- If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
 - 4- Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
 - 5- If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
 - 6- If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
 - 7- A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as

being authorised to do so.

8- In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 1- Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4-6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under the Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
- 2- Where the Contractor exercises his right of suspension under clause 4-7-1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
- 3- Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

- 5-1 The term 'Variation' means:
 - 1-1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
 - 2- any other addition to, omission from or alteration of any Order; or
 - 3- the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (Item 10).

Valuation – measurement

- 5-3 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2- Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4 1- Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars.
 - 2- The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5 1- Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2- If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, falling which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

Rates – Fluctuations

5-6 .1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:

.1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or

.2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 11-4).

.2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1.2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.

.3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.

.4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.

.5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

5-7 .1 For the purposes of this clause 5-7:

.1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and

.2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.

.2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 13).

.3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

5-8 If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, or any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

6-2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property, real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Part.

Injury or damage to property – work and Site Materials excluded

6-3 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:

- 1 the Order Completion Date; or
- 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

6-4 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:

- 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
- 2 for all other claims to which clause 6-4-1 applies²², shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (Item 14-1) for any one occurrence or series of occurrences arising out of one event²².

As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contractor Administrator for such inspection.

3. If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

221 It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

222 The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (Item 14).

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damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the
Site or any other property, caused by the effect of an Excepted Risk.

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance:

insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

(i) wear and tear,

(ii) obsolescence, or

(iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective;

(b) loss or damage caused by or arising from:

(i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,

(ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or

(iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk inssofar, but only inssofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);

(b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.
In an All Risks insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, material or workmanship' would not be in accordance with the terms of clause 6-6 or that definition, in relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

Joint Names Policy:

a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.

Pool Re Cover:

such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.

Specified Perils:

fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.

Terrorism Cover:

Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6.15.1, to an existing structure and/or its contents) caused by or resulting from terrorism.

Insurance of existing structures

1- The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement, repair or replacement of loss or damage due to any of the Specified Perils up to and including:

1- the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2.10 or by agreement pursuant to clause 2.4 occurs after the end of the Contract Period); or

2- (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).

2- The policy referred to in clause 6.7.1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.

3- In respect of the insurance referred to in clause 6.7.1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of Insurance

1- Except where the Employer is a Local Authority:

1- the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6.7.1 has been taken out and is being maintained; and

2- if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

2- Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

6-9 All Risks insurance of work or supply comprised in Orders

The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks insurance with cover no less than that specified in clause 6-6 for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14-2) to cover professional fees) up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

1- the end of the Contract Period or (if later) the last Order Completion Date; or

2- (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

1- provides (inter alia) All Risks insurance with cover and in amounts no less than those specified in clause 6-9; and

2- is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

6-13 1- If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.

2- Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

disregarded in computing any amounts payable to the Contractor under this Contract.

3. After any inspection required by the insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debts and proceed with the carrying out and completion of the Order(s).

4. The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.

5. The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.

6. In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

6-14 1. To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (item 14-4), subject to clauses 6-14-4 and 6-15.

2. Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.

3. Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.

4. Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

6-15 1. If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.

2. The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:

1. that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or

2. that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.

3. Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Order, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor, the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.

4. If the Employer gives notice of termination under clause 6-15-2 in respect of any Order, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.

-5 In the case of any Orders in respect of which notice of termination is not given under clause 6-15-2-2 and there is no requirement for cover under clause 6-15-3:

1. if work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;

2. the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6-15-5-2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and

-3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.



Section 7 Break Provision – Rights of each Party

Break notice

7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than 9 months' 13-week notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes insolvent:
- 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
- 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
- 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
- 4 on the making of a winding-up order under Part IV or V of that Act.

-2 a Party which is a partnership becomes insolvent:

- 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
- 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.

-3 a Party who is an individual becomes insolvent:

- 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
- 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.

-4 a Party also becomes insolvent if:

- 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1.1 to 8-1.4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

8-2 -1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.

-2 Such termination shall take effect on receipt of the relevant notice.

-3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

8-3 -1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.

-2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

Default by Contractor

- 1-1 If the Contractor:
 - 1-1 fails to comply with the CDM Regulations; or
 - 2-2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
- the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
- 2-2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
- 3-3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5 1-1 If the Contractor is insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
- 2-2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
- 3-3 As from the date the Contractor becomes insolvent, whether or not the Employer has given such notice of termination:
 - 1-1 clause 8-9 shall apply as if such notice had been given;
 - 2-2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3-3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7 1-1 If the Employer:
 - 1-1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2-2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3-3 interferes with or obstructs the issue of any certificate; or
 - 4-4 fails to comply with CDM Regulations,
- the Contractor may give to the Employer a notice specifying the default a 'specified

8-10

1. Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:

1. the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and

2. the amount of any direct loss and/or damage caused to the Contractor by the termination.

2. The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Termination by Contractor – account and payment

1. insofar as the Employer has given or gives a notice under clause 4-6-5; or

2. if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;

3. the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:

1. the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and

2. the amount of any direct loss and/or damage caused to the Employer by the termination;

4. if the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;

5. the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

8-9

1. the Employer may employ and pay other persons to carry out and complete uncompleted Orders;

2. no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either;

1. if the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:

Termination by Employer – valuation, certificate and payment

1. If the Employer is insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;

2. the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;

3. as from the date the Employer becomes insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Insolvency of Employer

2. If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.

3. If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Section 9 Settlement of Disputes

Mediation

9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.

Adjudication

9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (item 16).

Arbitration – Conduct of arbitration

9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.

Notice of reference to arbitration

9-4 1- Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 16).

2- Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.

3- After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):



9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.

Arbitration Act 1996

- 1- apply to the courts to determine any question of law arising in the course of the reference; and
- 2- appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Term Contract for Boiler Servicing and Repairs (as printed 20/05/2015 11:18:05) 633570402 20/05/2015

MTC 2011

Schedule

Supplemental Provisions

(Sixth Rectha)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

1

The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

2

Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.

2-

In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:

1-

comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;

2-

ensures that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;

3-

ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and

4-

ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

3

1- The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.

2-

The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.

3-

Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.

4-

Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations



Under the Employers Approved List Policy, where a private limited company has been accepted on to the Employer's Standing List of Contractors subject to the condition that they provide a director's personal guarantee, then their personal guarantee may be required for any contracts undertaken. Such companies are required to include for the provision of this guarantee in the tendered rates.

Director's Personal Guarantee

Under the Employers Approved List Policy, companies which are subsidiaries of a parent company may be required to provide a performance guarantee from that parent company and all subsidiary companies. Such companies are required to include for the provision of a performance guarantee in the tendered rates.

Parent Company Guarantee

The Contractor shall include for the provision of a Bond to provide for reimbursement of 10% of the Contract Amount (per annum) as Surety to secure the due performance of this Contract. This may be given by either an approved Banking or Insurance Company or by way of deposit with the Employer of an equivalent sum of money in which event such deposit will not be subject to the payment of interest to the Contractor. The Contractor shall include for the provision of a Bond by either method (as detailed above) and shall include the amount in his tendered rates.

Bond

With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.

Notification and negotiation of disputes

Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.

The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.

Performance indicators and monitoring

The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.



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SWEET & MAXWELL



THOMSON REUTERS

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Abney Drive 001-004	WV14 9SL	Two storey Four in block		4		4		
	Abney Drive 005-008	WV14 9SL	Two storey Four in block		4		4		
	Abney Drive 009-012	WV14 9SL	Two storey Four in block		4		4		
	Abney Drive 014-017	WV14 9SL	Two storey Four in block		4		4		
	Acorn Rd 021-031	WV11 2NG	Two storey Six in block		4		4		
	Acorn Rd 034-044	WV11 2NG	Two storey Six in block		4		4		
	Aldersley Rd 088-096a	WV6 9LZ	Four storey Ten in block		4		4		
	Aldersley Rd 098a-110a	WV6 9LZ	Four storey Ten in block		4		4		
WEDNESFIELD	Alfred Square Road	WV11	Area Office		4		4		
	Alice Street 026-054	WV14 0BY	Three storey Fifteen in block		4		4		
	Alice Walk 056-084	WV14 0DF	Three storey Fifteen in block		4		4		
	Ash Street 002-008	WV3 0DD	Two storey Four in block		4		4		
	Ash Street 002-012	WV14 8UP	Two storey Four in block		4		4		
	Ash Street 005-011	WV3 0DD	Two storey Four in block		4		4		
	Ash Street 010-016	WV3 0DD	Two storey Four in block		4		4		
	Ash Street 015-021	WV3 0DD	Two storey Four in block		4		4		
	Ash Street 018-024	WV3 0DD	Two storey Four in block		4		4		
	Ash Street 026-032	WV3 0DD	Two storey Four in block		4		4		
	Ash Street 027-033	WV3 0DD	Two storey Four in block		4		4		
	Ashfield Road 001A-003B	WV14 8BT	Two storey Four in block		4		4		
	Ashfield Road 002A-004B	WV14 8BT	Two storey Four in block		4		4		
	Ashley Street 120-126	WV14 7NN	Two storey Four in block		4		4		
	Ashley Street 128-134	WV14 7NN	Two storey Four in block		4		4		
	Ashmore Avenue 046-056	WV11 2NB	Two storey Six in block		4		4		
	Ashmore Avenue 061-071	WV11 2NE	Two storey Six in block		4		4		
	Ashmore Avenue 102-112	WV11 2NE	Two storey Six in block		4		4		
	Badger Drive 001-009B	WV10 9AA	Four storey Nine in block		4		4		
	Badger Drive 002-010	WV10 9AA	Four storey Nine in block		4		4		
	Badger Drive 011-013C	WV10 9AA	Four storey Nine in block		4		4		
	Badger Drive 015-017C	WV10 9AA	Four storey Nine in block		4		4		
	Bank Street 004-014	WV14 8PA	Three Storey Five in block		4		4		
	Bank Street 044-050	WV14 8PA	Two storey Four in block		4		4		
	Bargery Road 001-011	WV11 2LX	Two storey Six in block		4		4		
	Bargery Road 002-012	WV11 2LX	Two storey Six in block		4		4		
	Bargery Road 021-031	WV11 2LX	Two storey Six in block		4		4		
	Bealeys Avenue 046-056	WV11 1EJ	Three storey Six in block		4		4		
	Bealeys Avenue 058-068	WV11 1EJ	Three storey Six in block		4		4		
	Bealeys Court 001-004	WV11 1EA	Two storey Four in block		4		4		
	Bealeys Court 005-008	WV11 1EA	Two storey Four in block		4		4		
	Bellevue Street 004A-004F	WV14 9RZ	Two storey Six in block		4		4		
	Bellevue Street 006A-006F	WV14 9RZ	Two storey Six in block		4		4		
	Bellevue Street 008A-008F	WV14 9RZ	Two storey Six in block		4		4		
	Bevan Avenue 050-060	WV4 6SG	Three storey Six in block		4		4		
	Bevan Avenue 062-072	WV4 6SG	Three storey Six in block		4		4		
	Bevan Avenue 090-096	WV4 6SG	Two storey Four in block		4		4		
	Bewdley Drive 002-004A	WV1 2AU	Two storey Four in block		4		4		
	Bilboe Road 002A-004B	WV14 8EE	Two storey Four in block		4		4		
	Bilboe Road 006A-008B	WV14 8EE	Two storey Four in block		4		4		
	Bilboe Road 034A-0063B	WV14 8EE	Two storey Four in block		4		4		
	Birkdale Close 001-002A	WV1 2LP	Two storey Four in block		4		4		
	Birkdale Close 003-004A	WV1 2LP	Two storey Four in block		4		4		
	Birkdale Close 005-006A	WV1 2LP	Two storey Four in block		4		4		
	Birmingham New Road 071-081 Elliot Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 083-093 Elliot Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 090-096	WV4 6NY	Three storey Six in block		4		4		
	Birmingham New Road 095-105 Hardie Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 098-104	WV4 6NY	Two storey Four in block		4		4		
	Birmingham New Road 106-112	WV4 6NY	Two storey Four in block		4		4		
	Birmingham New Road 107-117 Hardie Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 119-129 Meriden Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 131-141Meriden Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 143-153 Morris Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 155-165 Morris Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 167-177 Wesley Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 179-189 Wesley Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 191-201 Warwick Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 203-213 Warwick Court	WV4 6BP	Three storey Six in block		4		4		
	Birmingham New Road 215-225 Lyndhurst Court	WV4 6LP	Three storey Six in block		4		4		
	Birmingham New Road 227-237 Lyndhurst Court	WV4 6LP	Three storey Six in block		4		4		
	Birmingham New Road 239-245 The Laurels	WV4 6LP	Two storey Four in block		4		4		
	Birmingham New Road 481-491	WV14 9PJ	Three storey Six in block		4		4		
	Birmingham New Road 493-503	WV14 9PJ	Three storey Six in block		4		4		
	Birmingham New Road 505-515	WV14 9PJ	Three storey Six in block		4		4		
	Bissell Street 027-029	WV14 7EN	Two storey Four in block		4		4		
	Bissell Street 031-037	WV14 7EN	Two storey Four in block		4		4		
	Blackwood Avenue 004-058	WV11 1EY	Three storey Six in block		4		4		
	Blackwood Avenue 042-046 Guest Ave 001-005	WV11 1EY	Three storey Six in block		4		4		
ADNA	Blackwood Avenue 053-059	WV11 1EX	Separated entrances to flats		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Blackwood Avenue 069-079	WV11 1EB	Three storey Six in block		4		4		
	Blackwood Avenue 081-091	WV11 1EB	Three storey Six in block		4		4		
	Blackwood Avenue 093-103	WV11 1EZ	Three storey Six in block		4		4		
	Blackwood Avenue 105-115	WV11 1EZ	Three storey Six in block		4		4		
	Blackwood Avenue 117-127	WV11 1EZ	Three storey Six in block		4		4		
	Blackwood Avenue 129-135B	WV11 1EZ	Three storey Six in block		4		4		
BIRCH COURT	Boscobel Crescent	WV1 1QQ	Hi Rise Block		4		4		
LANE COURT	Boscobel Crescent	WV1 1QQ	Hi Rise Block		4		4		
KILLSALL COURT	Boscobel Crescent	WV1 1QQ	Hi Rise Block		4		4		
WESTON COURT	Boscobel Crescent	WV1 1QQ	Hi Rise Block		4		4		
TONG COURT	Boscobel Crescent	WV1 1QQ	Hi Rise Block		4		4		
BOSCOBEL TMR	Boscobel Crescent	WV1 1QQ	Sheltered Scheme		4		4		
	Boydon Close 002-030	WV2 2NE	Three storey Twelve in block		4		4		
	Boydon Close 032-060	WV2 2NE	Three storey Twelve in block		4		4		
THE ACRES	Brantley Avenue	WV3 9AP	Sheltered Scheme		4		4		
	Brantley Avenue 001-011	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 013-023	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 025-035	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 037-047	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 049-059	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 061-071	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 073-083	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 085-095	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 097-107	WV3 9AP	Three storey Six in block		4		4		
	Brantley Avenue 109-119	WV3 9AP	Three storey Six in block		4		4		
	Bridge Street 019A-021B	WV14 7PE	Two storey Four in block		4		4		
	Bridgnorth Road 085-095	WV6 8AF	Three storey Six in block		4		4		
	Bridgnorth Road 097-107	WV6 8AF	Three storey Six in block		4		4		
	Bridgnorth Road 109-119	WV6 8AF	Three storey Six in block		4		4		
	Bridgnorth Road 121-131	WV6 8AF	Three storey Six in block		4		4		
	Bridgnorth Road 133-143	WV6 8AF	Three storey Six in block		4		4		
HARROWBY COURT	Brinsford Road	WV10 6ER	Sheltered Scheme		4		4		
PATSHULL COURT	Brinsford Road	WV10 6ER	Sheltered Scheme		4		4		
PATSHULL TMR	Brinsford Road	WV10 6ER	Tenant Meeting Rooms		4		4		
	Britannia Road 018A-020C	WV14 8DS	Three storey Six in block		4		4		
	Broad Street 051-061B	WV14 0BU	Three storey Fifteen in block		4		4		
	Broadmeadow Green 035A-036B	WV14 6EG	Two storey Four in block		4		4		
	Broadmeadow Green 043A-044B	WV14 6EG	Two storey Four in block		4		4		
	Bromfield Court 001-006	WV6 8JA	Four storey Six in block		4		4		
	Bromfield Court 007-012	WV6 8JA	Three storey Six in block		4		4		
	Bromfield Court 012a-018	WV6 8JA	Three storey Six in block		4		4		
	Bromfield Court 019-026	WV6 8JA	Three storey Six in block		4		4		
	Brook Street 024A-026B	WV14 0NS	Two storey Four in block		4		4		
	Brooklands Parade 037-039A	WV1 2ND	Two storey Four in block		4		4		
	Brooklands Parade 048A and 50A	WV1 2NE	Two storey Four in block		4		4		
	Brooklands Parade 052A and 54A	WV1 2NE	Two storey Four in block		4		4		
	Brooklands Parade 056A and 58A	WV1 2NE	Two storey Four in block		4		4		
	Brooklands Parade 057-059A	WV1 2ND	Two storey Four in block		4		4		
	Bulger Road 053-059	WV14 6RR	Two storey Four in block		4		4		
	Bulger Road 061-067	WV14 6RR	Two storey Four in block		4		4		
	Bulger Road 069-075	WV14 6RR	Two storey Four in block		4		4		
	Bulger Road 077-083	WV14 6RR	Two storey Four in block		4		4		
SPRINGFIELD TMO	Burton Road	WV10	Area Office		4		4		
	Cannock Rd 029-031C	WV10 0AG	Four storey Nine in block		4		4		
	Cannock Rd 033-041B	WV10 0AG	Four storey Nine in block		4		4		
	Cannock Rd 043-045C	WV10 0AG	Four storey Nine in block		4		4		
	Cannock Rd 047-055B	WV10 0AG	Four storey Nine in block		4		4		
	Cannock Rd 057-059C	WV10 0AG	Four storey Nine in block		4		4		
	Cannock Rd 061-069B	WV10 0AG	Four storey Nine in block		4		4		
	Cannock Rd 071-073C	WV10 0AG	Four storey Nine in block		4		4		
FEDERATION ROOM	Cannock Road 031	WV10 0AG	Tenant Meeting Room		4		4		
NPV TMO	Cannock Road 280-286	WV10 0BH	Two storey Four in block		4		4		
NPV TMO	Cannock Road 288-294	WV10 0BH	Two storey Four in block		4		4		
NPV TMO	Cannock Road 296-302	WV10 0BH	Two storey Four in block		4		4		
NPV TMO	Cannock Road 304-310	WV10 0BH	Two storey Four in block		4		4		
NPV TMO	Cannock Road 312-318	WV10 0BH	Two storey Four in block		4		4		
NPV TMO	Cannock Road 320-326	WV10 0BH	Two storey Four in block		4		4		
NPV TMO	Cannock Road 328-334	WV10 0BH	Two storey Four in block		4		4		
	Carder Crescent 053A-055B	WV14 0JT	Two storey Four in block		4		4		
	Carder Crescent 057A-059B	WV14 0JT	Two storey Four in block		4		4		
	Carder Crescent 061A-063B C	WV14 0JT	Two storey Four in block		4		4		
	Castlebridge Gardens 001-016	WV11 3NG	Four storey Fourteen in block		4		4		
	Castlebridge Gardens 017-032	WV11 3NG	Four storey Fourteen in block		4		4		
	Castlebridge Gardens 033-048	WV11 3NG	Four storey Fourteen in block		4		4		
	Castlebridge Gardens 049-064	WV11 3NQ	Four storey Fourteen in block		4		4		
	Castlebridge Gardens 066-076	WV11 3NQ	Four storey Fourteen in block		4		4		
	Castlebridge Gardens 077-090	WV11 3NQ	Four storey Fourteen in block		4		4		
	Castlebridge Gardens 091-106	WV11 3NQ	Four storey Fourteen in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Castlebridge Road 005A-005F	WV11 3NP	Two storey Six in block		4		4		
	Castlebridge Road 007A-007F	WV11 3NP	Two storey Six in block		4		4		
	Castlebridge Road 059A-059F	WV11 3NP	Two storey Six in block		4		4		
	Castlecroft Road 184	WV3 8NB	Three storey Three in block		4		4		
	Castlecroft Road 186	WV3 8NB	Three storey Three in block		4		4		
	Castlecroft Road 228	WV3 8ND	Three storey Three in block		4		4		
	Castlecroft Road 230	WV3 8ND	Three storey Three in block		4		4		
	Castlecroft Road 232	WV3 8ND	Three storey Three in block		4		4		
	Castlecroft Road 234	WV3 8ND	Three storey Three in block		4		4		
	Castlecroft Road 248	WV3 8ND	Three storey Three in block		4		4		
	Castlecroft Road 250	WV3 8ND	Three storey Three in block		4		4		
PENWOOD CT & MERRY HILL CONCIERGE	Chadwick Close	WV4 4PX	Hi Rise & Concierge Office		4		4		
ST JOSEPHS COURT	Chadwick Close	WV4 4PX	Hi Rise Block		4		4		
HIGHFIELD COURT	Chadwick Close	WV4 4PX	Hi Rise Block		4		4		
PENNWOOD COURT	Chadwick Close	WV4	Hi Rise Block see FRA24		4		4		
	Chapel Street 018-024	WV14 0PA	Two storey Four in block		4		4		
	Chelmarsh Avenue 056	WV3 8JA	Three storey Three in block		4		4		
	Chelmarsh Avenue 058	WV3 8JA	Three storey Three in block		4		4		
	Chelmarsh Avenue 060	WV3 8JA	Three storey Three in block		4		4		
	Chelmarsh Avenue 062	WV3 8JA	Three storey Three in block		4		4		
	Chelmarsh Avenue 064	WV3 8JA	Three storey Three in block		4		4		
	Chelmarsh Avenue 066	WV3 8JA	Three storey Three in block		4		4		
RED OAK HOUSE	Chervil Rise	WV10	Hi Rise Block		4		4		Rope Decent Cleaning is required
	Chervil Rise 001-071	WV10 0HZ	7 storey Thirty four in block		4		4		
	Chervil Rise 002-060	WV10 0HN	7 storey Thirty flats in block		4		4		
	Chervil Rise 062-170	WV10 0HW	7 storey Fifty five in block		4		4		
	Chervil Rise 073-095	WV10 0HZ	Six storey Twelve in block		4		4		
	Chervil Rise 097-165	WV10 0HY	7 storey Thirty four in block		4		4		
	Chervil Rise 167-225	WV10 0HY	7 storey Thirty flats in block		4		4		
	Chervil Rise 184-206	WV10 0HR	Six storey Twelve and commercial in block		4		4		
THE DEPOT	Chervil Rise 222-224	WV10 0HR	MISCELLANEOUS PROPERTIES		4		4		
CONTRACTS OFFICE	Chervil Rise 222-224	WV10 0HR	Two storey Commercial		4		4		
EMB OFFICE	Chervil Rise 228-234	WV10 0HR	Area Office		4		4		
	Chervil Rise 242-288	WV10 0HR	Five storey Eight flats and commercial in block		4		4		
	Chervil Rise 264-272	WV10 0HR	Five storey Eight flats and commercial in block		4		4		
HOUSING OFFICE	Chervil Rise 290	WV10 0HR	Area Office		4		4		
	Chervil Rise 292-330	WV10 0HR	Six storey Twenty in block		4		4		
	Chervil Rise 332-342	WV10 0QA	Two storey Six in block		4		4		
	Chetton Green 102-109	WV10 6RB	Four storey Eight in block		4		4		
	Chetton Green 110-117	WV10 6RB	Four storey Eight in block		4		4		
	Chetton Green 118-125	WV10 6RB	Four storey Eight in block		4		4		
	Chetton Green 126-133	WV10 6RB	Four storey Eight in block		4		4		
	Chetton Green 134-141	WV10 6RB	Four storey Eight in block		4		4		
WOODCROSS	Childs Avenue 108	WV14 9XB	Area Office		4		4		
	Church Street Bliston	WV14	Area Office		4		4		
	Clover Ley 002 - 030	WV10 0HD	Five storey Sixteen in block		4		4		
	Clover Ley 032 - 108	WV10 0HD	7 storey Thirty nine in block		4		4		
	Clover Ley 110 -128	WV10 0HD	Five storey Sixteen in block		4		4		
	Clover Ley 130-148	WV10 0HF	Five storey Ten in block		4		4		
	Coppice Close 001-006	WV11 2NQ	Two storey Six in block		4		4		
	Cornwall Road 103-109B	WV6 8UY	Three storey Twelve in block		4		4		
ARTHUR GREENWOOD COURT	Coronation Rd	WV14 0HS	Tenant Meeting Room		4		4		
ARTHUR GREENWOOD COURT	Coronation Road	WV14 0HS	Hi Rise Block		4		4		
COVEN LODGE	Coven Street	WV10 0AG	Tenant Meeting Room		4		4		
	Coventry Street 062-064A	WV1 2 LQ	Two storey Four in block		4		4		
	Coventry Street 081-083A	WV1 2 LQ	Two storey Four in block		4		4		
	Croft Lane 002-002F	WV10 8RH	Two storey Six in block		4		4		
	Cumberland Road 030-033	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 034-037	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 038-041	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 042-045	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 046-049	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 050-053	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 054-057	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 058-061	WV14 6LT	Two storey Four in block		4		4		
	Cumberland Road 062-065	WV14 6LT	Two storey Four in block		4		4		
	Dale Street 001-011	WV3 0PD	Three storey Six in block		4		4		
	Dale Street 015-025	WV3 0PD	Three storey Six in block		4		4		
	Dale Street 027-049	WV3 0PD	Three storey Six in block		4		4		
	Dale Street 051-061	WV3 0PD	Three storey Six in block		4		4		
	Dale Street 063-073	WV3 0PD	Three storey Five in block		4		4		
	Davenport Rd 042	WV11 3BX	Three storey Three in block		4		4		
	Davenport Rd 044	WV11 3BX	Three storey Three in block		4		4		
	Deans Road 003-019	WV1 2BA	Three storey Nine in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Deans Road 021-031	WV1 2BA	Three storey Nine in block		4		4		
	Deans Road 033-049	WV1 2BA	Three storey Nine in block		4		4		
	Deans Road 146-148A	WV1 2BA	Two storey Four in block		4		4		
	Deans Road 150-152A	WV1 2BA	Two storey Four in block		4		4		
	Deans Road 154-156A	WV1 2BA	Two storey Four in block		4		4		
	Deans Road 158-160A	WV1 2BA	Two storey Four in block		4		4		
	Deans Road 162-164A	WV1 2BA	Two storey Four in block		4		4		
	Deans Road 182-184A	WV1 2BA	Two storey Four in block		4		4		
	Dereham Walk 045-055	WV14 8PR	Two storey Six in block		4		4		
SCOTLANDS	Dickens Road 004-006	WV10 8RU	Area Office		4		4		
	Dovedale Road 187-201	WV14 9BB	Four storey Eight in block		4		4		
	Dovedale Road 188-202	WV14 9BB	Four storey Eight in block		4		4		
	Dovedale Road 203-217	WV14 9BB	Four storey Eight in block		4		4		
	Dovedale Road 219-229	WV14 9BB	Three storey Six in block		4		4		
	Dovedale Road 231-241	WV14 9BB	Three storey Six in block		4		4		
	Dudley Crescent 019	WV11 3BY	Three storey Three in block		4		4		
	Dudley Crescent 021	WV11 3BY	Three storey Three in block		4		4		
	Elizabeth Avenue 002A-004C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 006A-008C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 010A-012C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 014A-016C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 018A-020C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 022A-024C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 026A-028C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 030A-032C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 034A-036C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 038A-040C	WV14 8DZ	Three storey Six in block		4		4		
	Elizabeth Avenue 042A-044C	WV14 8DZ	Three storey Six in block		4		4		
	Essington Way 061-063A	WV1 2NX	Two storey Four in block		4		4		
	Essington Way 073-075A	WV1 2NX	Two storey Four in block		4		4		
	Essington Way 077-079A	WV1 2NX	Two storey Four in block		4		4		
	Essington Way 089-091A	WV1 2NX	Two storey Four in block		4		4		
	Ettingshall Road 002-008 woodcross	WV14 9UJ	Two storey Four in block		4		4		
	Ettingshall Road 010-016 woodcross	WV14 9UJ	Two storey Four in block		4		4		
	Ettingshall Road 018-024 woodcross	WV14 9UJ	Two storey Four in block		4		4		
ST ANDREWS HOUSE & Whitmore Concierges	Evans St (inc 26)	WV6	High Rise Block & Concierge		4		4		
	Evans St 007-037	WV6 0PL	Three storey Fifteen in block		4		4		
	Falcon Court 010-020	WV14 9BE	Three storey Six in block		4		4		
	Falcon Court 022-032	WV14 9BE	Three storey Six in block		4		4		
	Falcon Crescent 001-015	WV14 9BE	Three storey Six in block		4		4		
	Falcon Crescent 017-027	WV14 9BE	Three storey Six in block		4		4		
	Falcon Crescent 029-039	WV14 9BE	Three storey Six in block		4		4		
	Fellows Road 012ABC-014AB	WV14 6RD	Two storey Five in block		4		4		
	Field Head Place 001-006	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 007-012	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 013-018	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 019-024	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 025-030	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 031-036	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 037-042	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 043-048	WV6 8XE	Three storey Six in block		4		4		
	Field Head Place 049-054	WV6 8XE	Three storey Six in block		4		4		
	First Avenue 098-102A	WV10 9PA	Two storey Six in block		4		4		
	First Avenue 104-110A	WV10 9PA	Two storey Six in block		4		4		
	First Avenue 107-113A	WV10 9SF	Two storey Six in block		4		4		
	First Avenue 112-116A	WV10 9PA	Two storey Six in block		4		4		
	First Avenue 115-121A	WV10 9SF	Two storey Six in block		4		4		
	First Avenue 118-122A	WV10 9PA	Two storey Six in block		4		4		
	First Avenue 123-129A	WV10 9SF	Two storey Six in block		4		4		
	First Avenue 131-137A	WV10 9SF	Two storey Six in block		4		4		
	First Avenue 139-141C	WV10 9SF	Two storey Six in block		4		4		
	Florence Avenue 018-024	WV4 6DB	Two storey Four in block		4		4		
	Florence Avenue 042-048	WV4 6DB	Two storey Four in block		4		4		
	Fozdar Crescent 005-011	WV14 9UH	Two storey Four in block		4		4		
	Fozdar Crescent 013-019	WV14 9UH	Two storey Four in block		4		4		
	Fozdar Crescent 018-024	WV14 9UH	Two storey Four in block		4		4		
	Fozdar Crescent 021-027	WV14 9UH	Two storey Four in block		4		4		
	Fraser Street 002-030	WV14 7PG	Three storey Fifteen in block		4		4		
	Frost Street 040-064	WV2 2LL	Three storey Nine in block		4		4		
	Frost Street 053-059	WV2 2LP	Three storey Four in block		4		4		
	Frost Street 061-067	WV2 2LP	Three storey Four in block		4		4		
	Frost Street 069-097	WV2 2LP	Three storey Fifteen in block		4		4		
	Genthorn Close 001-011Ashcroft	WV4 6BX	Three storey Six in block		4		4		
	Genthorn Close 002-012 Holmcroft	WV4 6BX	Three storey Six in block		4		4		
	Genthorn Close 013-023 Ashcroft	WV4 6BX	Three storey Six in block		4		4		
	Genthorn Close 014-024 Holmcroft	WV4 6BX	Three storey Six in block		4		4		
	George Street 073-079	WV2 2LY	Two storey Four in block		4		4		
	George Street 053-059	WV2 2LY	Two storey Four in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Glenworth Gardens 084-098	WV6 0SQ	Two storey Eight in block		4		4		
	Glenworth Gardens 100-110	WV6 0SQ	Two storey Six in block		4		4		
	Glenworth Gardens 112-126	WV6 0SQ	Two storey Eight in block		4		4		
	Glenworth Gardens 144-154	WV6 0SQ	Two storey Six in block		4		4		
	Glenworth Gardens 156-170	WV6 0SQ	Two storey Eight in block		4		4		
	Glenworth Gardens 172-182	WV6 0SQ	Two storey Six in block		4		4		
	Glenworth Gardens 184-194	WV6 0SQ	Two storey Six in block		4		4		
	Glenworth Gardens 196-206	WV6 0SQ	Two storey Six in block		4		4		
	Glenworth Gardens 208-222	WV6 0SQ	Two storey Eight in block		4		4		
	Glenworth Gardens 224-238	WV6 0SQ	Two storey Eight in block		4		4		
	Glenworth Gardens 240-254	WV6 0SQ	Two storey Eight in block		4		4		
	Glenworth Gardens 256-270	WV6 0SJ	Two storey Eight in block		4		4		
	Glenworth Gardens 272-282	WV6 0SJ	Two storey Six in block		4		4		
	Glenworth Gardens 284-298	WV6 0SJ	Two storey Eight in block		4		4		
	Glenworth Gardens 300-310	WV6 0SJ	Two storey Six in block		4		4		
	Glenworth Gardens 332	WV6 0SN	Two storey Two in block above shops		4		4		
	Gorse Road 001-011	WV11 2PY	Two storey Six in block		4		4		
	Gozzard Street 001-007	WV14 7EW	Two storey Four in block		4		4		
	Gozzard Street 009-017	WV14 7EW	Two storey Four in block		4		4		
	Graiseley Street 001-055	WV3 0PA	Four storey Eight in block		4		4		
	Graiseley Street 002-016	WV3 0PB	Three storey Eight in block		4		4		
	Graiseley Street 018-028	WV3 0PB	Three storey Six in block		4		4		
	Graiseley Street 019 - 039	WV3 0PA	Three storey Eight in block		4		4		
	Great Bricklin Street 029-043	WV3 0NZ	Four storey Eight in block		4		4		
	Great Bricklin Street 045-059	WV3 0NZ	Four storey Eight in block		4		4		
	Great Bricklin Street 173-177	WV3 0PN	Three storey Three in block		4		4		
	Great Bricklin Street 179-189	WV3 0PN	Three storey Six in block		4		4		
	Great Bricklin Street 191-201	WV3 0PN	Three storey Six in block		4		4		
	Green Park Avenue 009A-009F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 011A-011F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 013A-013F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 015A-015F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 017A-017F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 019A-019F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 021A-021F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 023A-023F	WV14 6EH	Two storey Six in block		4		4		
	Green Park Avenue 025A-025F	WV14 6EH	Two storey Six in block		4		4		
	Griffiths Drive 001-011	WV11 2JL	Three storey Six in block		4		4		
ASHMORE PARK	Griffiths Drive 008	WV11 2JW	Returned to tenancy		4		4		
	Griffiths Drive 013-023	WV11 2JL	Three storey Six in block		4		4		
	Griffiths Drive 014-040	WV11 2JW	Maisonette flats above shops with two stair access, wide common paths and unenclosed frontage		4		4		
	Griffiths Drive 035	WV11 2JW	Returned to tenancy		4		4		
ASHMORE PARK	Griffiths Drive 058	WV11 2JN	Area Office		4		4		
	Griffiths Drive 094-096	WV11 2JW	Maisonette flats above shops with two stair access, wide common paths and unenclosed frontage		4		4		
	Griffiths Drive 098-130	WV11 2JW	Maisonette flats above shops with two stair access, wide common paths and unenclosed frontage		4		4		
	Griffiths Drive 098-130	WV11 2JW	Maisonette flats above shops with two stair access, wide common paths and unenclosed frontage		4		4		
	Griffiths Drive 335a – 341a	WV11 2LD	Maisonette flats above shops with single stair access, wide common paths and unenclosed frontage		4		4		
	Griffiths Drive 487-497	WV11 2LQ	Two storey Six in block		4		4		
	Griffiths Drive 499-509	WV11 2LH	Two storey Six in block		4		4		
	Griffiths Drive 512-522	WV11 2LQ	Two storey Six in block		4		4		
	Griffiths Drive 567-577	WV11 2LH	Two storey Six in block		4		4		
	Grove Street 001-003A	WV10 0PY	Two storey Four in block		4		4		
	Grove Street 002-006A	WV10 0PY	Two storey Four in block		4		4		
	Grove Street 008-010A	WV10 0PY	Two storey Four in block		4		4		
	Grove Street 012-014A	WV10 0PY	Two storey Four in block		4		4		
	Grove Street 016-018A	WV10 0PY	Two storey Four in block		4		4		
	Guest Avenue 001-005 combined with 262	WV11 1EN	Three storey Six in block		4		4		
	Guest Avenue 007-017	WV11 1EN	Three storey Six in block		4		4		
	Guest Avenue 019-029	WV11 1EN	Three storey Six in block		4		4		
	Guest Avenue 031-041	WV11 1EN	Three storey Six in block		4		4		
	Guest Avenue 043-053	WV11 1EL	Three storey Six in block		4		4		
	Guest Avenue 055-065	WV11 1EL	Three storey Six in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Guy Avenue 002A 004B	WV10 9SD	Two storey Four in block		4		4		
	Hackford Road 002-008	WV4 6BU	Two storey Four in block		4		4		
	Hackford Road 010-016	WV4 6BU	Two storey Four in block		4		4		
	Hall Green Street 001-011	WV14 8TH	Three storey Six in block		4		4		
	Hall Green Street 015-025	WV14 8TH	Three storey Six in block		4		4		
	Hall Green Street 027-037	WV14 8TH	Three storey Six in block		4		4		
	Hall Green Street 039-049	WV14 8TH	Three storey Six in block		4		4		
	Hall Green Street 051-061	WV14 8TH	Three storey Six in block		4		4		
	Hall Lane 028-031	WV14 9RJ	Two storey Four in block		4		4		
	Hall Lane 032-035	WV14 9RJ	Two storey Four in block		4		4		
	Hall Lane 036-039	WV14 9RJ	Two storey Four in block		4		4		
GROSVENOR COURT CONCIERGE	Hallet Drive	WV3 0NU	Concierge		4		4		
RUSSELL COURT	Hallet Drive	WV3	Hi Rise Block		4		4		Rope Decent Cleaning is required
GROSVENOR COURT	Hallet Drive	WV3	Hi Rise Block		4		4		Rope Decent Cleaning is required
GRAISELEY COURT	Hallet Drive	WV3 0NY	Sheltered Scheme		4		4		Rope Decent Cleaning is required
	Hallet Drive 002-040	WV3 0NY	Four storey Ten in block		4		4		
RAKEGATE	Hampton Road 012	WV10 6UX	Tenant Meeting Room		4		4		
CHETTON GREEN	Harrowby Rd 134	WV10 6RB	Area Office		4		4		
WOBASTON COURT	Harrowby Road	WV10 6ER	High Rise Block, Concierge Office & Tenant Meeting Room		4		4		
	Harrowby Road 079A-081A	WV10 6EP	Two storey Two in block above shops		4		4		
	Harrowby Road 083A-085A	WV10 6EP	Two storey Two in block above shops		4		4		
	Harrowby Road 087A-089A	WV10 6EP	Two storey Two in block above shops		4		4		
	Hateley Drive 001-007	WV4 6SB	Two storey Four in block		4		4		
	Hateley Drive 009-015	WV4 6SB	Two storey Four in block		4		4		
HAYLING GROVE	Hayling Grove	WV2 4QE	Sheltered Scheme		4		4		
	Hayling Grove 001-006	WV2 4QE	No common areas apart from small unenclosed porch		4		4		
	Hayling Grove 007-012	WV2 4QE	No common areas apart from small unenclosed porch		4		4		
	Hayling Grove 014-015	WV2 4QE	No common areas apart from small unenclosed porch		4		4		
	Hayling Grove 016-021	WV2 4QE	No common areas apart from small unenclosed porch		4		4		
	Hayling Grove 022-025	WV2 4QE	No common areas apart from small unenclosed porch		4		4		
	Hayling Grove 026-031	WV2 4QE	No common areas apart from small unenclosed porch		4		4		
	Hellier Road 004-006A	WV10 8EE	Two storey Four in block		4		4		
	Hellier Road 008-010A	WV10 8EE	Two storey Four in block		4		4		
	Hessian Close 001-009	WV14 9PL	Three storey Six in block		4		4		
	Hessian Close 002A-B	WV14 9PL	Two storey Two in block		4		4		
	Hessian Close 004A-B	WV14 9PL	Two storey Two in block		4		4		
	Hessian Close 006A-B	WV14 9PL	Two storey Two in block		4		4		
	Hessian Close 008A-B	WV14 9PL	Two storey Two in block		4		4		
	Hessian Close 014-020	WV14 9PL	Two storey Four in block		4		4		
	Hessian Close 022-028	WV14 9PL	Two storey Four in block		4		4		
HICKMAN AVE OFFICE	Hickman Avenue	WV1 2BY	Area Office		4		4		
HICKMAN AVE OFFICE STORES	Hickman Avenue	WV1 2BY	MISCELLANEOUS PROPERTIES		4		4		
HICKMAN AVENUE ARCHIVES	Hickman Avenue	WV1 2BY	MISCELLANEOUS PROPERTIES		4		4		
HICKMAN AVENUE STORES	Hickman Avenue	WV1 2BY	MISCELLANEOUS PROPERTIES		4		4		
BILSTON	High Street Bilston	WV14 0EY	Area Office		4		4		
	Hilton Road 102-112 Ryecroft	WV4 6DR	Three storey Six in block		4		4		
	Hilton Road 114-124 Ryecroft	WV4 6DR	Three storey Six in block		4		4		
	Hilton Road 167-173	WV4 6DR	Two storey Four in block		4		4		
	Hilton Road 175-181	WV4 6DR	Two storey Four in block		4		4		
	Hilton Road 183-189	WV4 6DR	Two storey Four in block		4		4		
BROCKFIELD HOUSE	Hobgate Road	WV10	Hi Rise Block		4		4		
CAMPION HOUSE	Hobgate Road	WV10	High Rise Block & Tenant Meeting Room		4		4		
BOILER HOUSE	Hobgate Road	WV1	MISCELLANEOUS PROPERTIES		4		4		
HEATH TOWN TMR	Hobgate Road	WV10	see FRA71		4		4		
	Hobgate Road 001-073	WV10 0PR	Six storey Thirty six in block		4		4		
	Hobgate Road 075-157	WV10 0PS	Seven storey Eighteen in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Hobgate Road 159-193	WV10 0PS	Seven storey Seventeen in block		4		4		
PUMP HOUSE	Hobgate Road Pump House	WV10 0PS	MISCELLANEOUS PROPERTIES		4		4		
	Hollington Road 001-003	WV1 2DR	Two storey Two flats above shops		4		4		
	Hollington Road 007-009	WV1 2DR	Two storey Two flats above shops		4		4		
	Hollington Road 017-019	WV1 2DR	Two storey Two flats above shops		4		4		
	Hollington Road 027-029	WV1 2DR	Two storey Two flats above shops		4		4		
	Humphries Crescent 013-015	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 014-016	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Humphries Crescent 017-019	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Humphries Crescent 018-020	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Humphries Crescent 021-023	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 025-027	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Humphries Crescent 026-028	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 029-031	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Humphries Crescent 030-032	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 033-035	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Humphries Crescent 037-039	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 038-044	WV14 8BB	Two storey Four in block		4		4		
	Humphries Crescent 041-043	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 045-047	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 046-052	WV14 8BB	Two storey Four in block		4		4		
	Humphries Crescent 049-051	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 054-056	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 058-060	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 062-064	WV14 8BB	Two storey Two in block		4		4		
	Humphries Crescent 066-068	WV14 8BB	unenclosed access to flat entrance doors		4		4		
	Hurst Rd 001-007	WV14 9UJ	Two storey Four in block		4		4		
	Hurst Rd 009-015	WV14 9UJ	Two storey Four in block		4		4		
	Hurst Road 084-090	WV14 9EU	Two storey Four in block		4		4		
	Hurst Road 092-098	WV14 9EU	Two storey Four in block		4		4		
	Hurst Road 100-106	WV14 9EU	Two storey Four in block		4		4		
	Hurstbourne Crescent 002-006A	WV1 2EF	Two storey Six in block		4		4		
	Hurstbourne Crescent 016-020A	WV1 2EF	Two storey Six in block		4		4		
	James Street 002-008	WV14 7LY	Two storey Four in block		4		4		
	James Street 010-016	WV14 7LY	Two storey Four in block		4		4		
	Jameson St 083-093	WV6 0NT	Two storey Four in block		4		4		
	Jameson St 095-105	WV6 0NT	Two storey Four in block		4		4		
	Jenkins Close 001-007	WV14 0HL	unenclosed access to flat entrance doors		4		4		
	Jenkins Close 009-015	WV14 0HL	unenclosed access to flat entrance doors		4		4		
	Jenkins Close 014-024	WV14 0HL	Three storey Six in block		4		4		
	Jenkins Close 017-023	WV14 0HL	unenclosed access to flat entrance doors		4		4		
	Jenkins Close 025-037	WV14 0HL	Three storey Six in block		4		4		
PARKFIELDS	Joan Street 001	WV2 2DQ	Returned to tenancy		4		4		
	John St 001-007	WV2 2LS	Two storey Four in block		4		4		
	John St 009-011	WV2 2LS	Two storey Two in block		4		4		
	John St 013-015	WV2 2LS	Two storey Two in block		4		4		
	John St 014-020	WV2 2LS	Three storey Four in block		4		4		
	John St 017-019	WV2 2LS	Two storey Two in block		4		4		
	John St 021-023	WV2 2LS	Two storey Two in block		4		4		
	John St 024-028	WV2 2LS	Three storey Four in block		4		4		
	John St 025-031	WV2 2LS	Two storey Four in block		4		4		
	Jonesfield Crescent 033-043	WV1 2LT	Two storey Six in block		4		4		
	Jonesfield Crescent 045-055	WV1 2LT	Two storey Six in block		4		4		
	Jonesfield Crescent 069-079	WV1 2LT	Two storey Six in block		4		4		
	Kemphom Avenue 002A-004B	WV10 9JG	Two storey Four in block		4		4		
	Kenilworth Crescent 001-007	WV4 6TA	Two storey Four in block		4		4		
	Kenilworth Crescent 132-138	WV4 6SO	Two storey Four in block		4		4		
	King Street 021-023	WV14 8PB	Two storey Two in block		4		4		
	King Street 025-027	WV14 8PB	Two storey Two in block		4		4		
	King Street 048-060	WV14 8PB	Three storey Six in block		4		4		
	King Street 062-072	WV14 8PB	Three storey Six in block		4		4		
LATHE COURT and LAKEFIELD CONCIERGE	Lakefield Rd	WV11 2RB	High Rise & Concierge Office		4		4		
	Langdate Drive 044-047	WV14 6LX	Two storey Four in block		4		4		
	Langdate Drive 048-051	WV14 6LX	Two storey Four in block		4		4		

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	Lawnswood Avenue 037-047	WV4 6RZ	Three storey Six in block		4		4		
	Lawnswood Avenue 049-059	WV4 6RZ	Three storey Six in block		4		4		
	Lawnswood Avenue 050-060	WV4 6RZ	unable to locate - likely address confusion with Bevan Avenue		4		4		
	Lawnswood Avenue 062-072	WV4 6RZ	unable to locate - likely address confusion with Bevan Avenue		4		4		
MAGIC GARDEN	Leacroft Avenue	WV10 9DG	Tenant Meeting Room		4		4		
	Leacroft Avenue 001A-003B	WV10 9BE	Two storey Four in block		4		4		
MERRY HILL	Leasowes Drive	WV4 4PU	Area Office		4		4		
	Ledbury Drive 001-005A	WV1 2DU	Two storey Six in block		4		4		
	Ledbury Drive 016-020A	WV1 2DU	Two storey Six in block		4		4		
	Lewis Avenue 001-003A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 005-007A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 018-020A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 022-024A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 026-028A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 030-032A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 035-037A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 050-052A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 075-077A	WV1 2AZ	Two storey Four in block		4		4		
	Lewis Avenue 079-081A	WV1 2AZ	Two storey Four in block		4		4		
	Lichfield Road 225-229A	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 231-235	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 237-241	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 243-247	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 249-253	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 255-259	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 261-265	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 267-271	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 273-275	WV11 3EW	Three storey Six in block		4		4		
	Lichfield Road 277-281	WV11 3EW	Three storey Six in block		4		4		
	Lilleshall Crescent 001-003A	WV2 1HF	Two storey Four in block		4		4		
	Lilleshall Crescent 002-012	WV2 1HF	Two storey Six in block		4		4		
	Lilleshall Crescent 005-007A	WV2 1HF	Two storey Four in block		4		4		
THE HOLLOWES	Lilleshall Crescent 009	WV2 1HF	Sheltered Scheme		4		4		
	Lilleshall Crescent 009-011A	WV2 1HF	Two storey Four in block		4		4		
	Lilleshall Crescent 013-015A	WV2 1HF	Two storey Four in block		4		4		
	Lilleshall Crescent 017-019A	WV2 1HF	Two storey Four in block		4		4		
	Lilleshall Crescent 021-023A	WV2 1HF	Two storey Four in block		4		4		
	Lilleshall Crescent 025-027A	WV2 1HF	Two storey Four in block		4		4		
	Lilleshall Crescent 029-031A	WV2 1HF	Two storey Four in block		4		4		
	Limehurst Avenue 002-012	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 014-024	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 026-036	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 038-048	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 050-060	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 062-072	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 074-084	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 086-096	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 098-108	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 110-120	WV3 9BE	Three storey Six in block		4		4		
	Limehurst Avenue 122-132	WV3 9BE	Three storey Six in block		4		4		
LAUNDRY	Limehurst Avenue Laundry	WV3 9BE	MISCELLANEOUS PROPERTIES		4		4		
	Lincoln Street 001-031	WV10 0DX	Four storey Fourteen in block		4		4		
HAWTHORN HOUSE	Long Ley	WV10	Hi Rise Block		4		4		Rope Decent Cleaning is required
LING HOUSE	Long Ley	WV10	Hi Rise Block		4		4		Rope Decent Cleaning is required
	Long Ley 278-308	WV10 0HS	Five storey Sixteen in block over storage units		4		4		
	Long Ley 310-318	WV10 0HS	Five storey Eight in block		4		4		
LAUNDRY	Long Ley Laundry	WV10 0HS	MISCELLANEOUS PROPERTIES		4		4		
	Lord Street 001-013	WV14 8SD	Three storey Six in block		4		4		
	Lord Street 042-045	WV3 0QU	Two storey Four in block		4		4		
	Lord Street 046-049	WV3 0QU	Two storey Four in block		4		4		
	Lord Street 050-053	WV3 0QU	Two storey Four in block		4		4		
	Lord Street 054-057	WV3 0QU	Two storey Four in block		4		4		
	Lord Street 058-061	WV3 0QU	Two storey Four in block		4		4		
WHITMORE HOUSE	Lowe Street	WV6	Hi Rise Block		4		4		
THE ELMS TMR	Lowe Street	WV6 0QR	Tenant Meeting Room		4		4		
	Lower Prestwood Road 071-077	WV11 1JY	Two storey Four in block		4		4		
	Lower Prestwood Road 079-085	WV11 1JY	Two storey Four in block		4		4		
	Lower Prestwood Road 087-093	WV11 1JY	Two storey Four in block		4		4		
	Lower St 008-10B	WV6 9AF	Two storey Six in block		4		4		
	Lower St 014-020	WV6 9AF	Two storey Four in block		4		4		
	Lower St 022-028	WV6 9AF	Two storey Four in block		4		4		
	Lower St 030-036	WV6 9AF	Two storey Four in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Lower St 038-044	WV6 9AF	Two storey Four in block		4		4		
	Lower Vauxhall 02-20	WV1 4TA	Four storey Ten in block		4		4		
	Manby Close 001-031	WV6 0QR	Three storey Fifteen in block		4		4		
	Manby Close 002-030	WV6 0QR	Three storey Fifteen in block		4		4		
	Marchant Road 032-038	WV14 6DG	Two storey Four in block		4		4		
MARKET STREET	Market Street 29	WV1 3AG	Area Office		4		4		
MASEFIELD MEWS	Masefield Road	WV10 8SB	Sheltered Scheme		4		4		
	Masefield Road 083-089	WV10 8SB	Two storey Four in block		4		4		
	Masefield Road 091-097	WV10 8SB	Two storey Four in block		4		4		
	Masefield Road 099-105	WV10 8SB	Two storey Four in block		4		4		
	Masefield Road 107-113	WV10 8SB	Two storey Four in block		4		4		
	Meldon Drive 095-105	WV14 8BE	Three storey Six in block		4		4		
	Meldon Drive 107-117	WV14 8BE	Three storey Six in block		4		4		
	Meldon Drive 119-129	WV14 8BE	Three storey Six in block		4		4		
	Meldon Drive 131-141	WV14 8BE	Three storey Six in block		4		4		
	Meriden Road 044-054	WV10 6XA	Two storey Six in block		4		4		
	Meriden Road 047-057	WV10 6XA	Two storey Six in block		4		4		
	Merrick Road 001A-001F	WV11 3NZ	Two storey Six in block		4		4		
MERRIDALE COURT TMR	Merridale Court	WV3 9LD	Tenant Meeting Room		4		4		
	Merridale Court 001-016	WV3 9LD	Four storey Sixteen in block		4		4		
	Merridale Court 017-037	WV3 9LD	Four storey Sixteen in block		4		4		
	Merridale Court 038-055	WV3 9LD	Four storey Sixteen in block		4		4		
	Merridale Court 056-073	WV3 9LD	Four storey Sixteen in block		4		4		
	Merridale Court 074-091	WV3 9LE	Four storey Sixteen in block		4		4		
	Merridale Court 092-109	WV3 9LE	Four storey Sixteen in block		4		4		
	Merridale Court 110-121	WV3 9LF	Three storey Nine in block		4		4		
	Merridale Court 122-157	WV3 9LF	Three storey 36 in block		4		4		
LAUNDRY	Merridale Court Laundry	WV3 9LD	MISCELLANEOUS PROPERTIES		4		4		
	Mervyn Road 029A-031B	WV14 8DF	Two storey Four in block		4		4		
	Mervyn Road 033A-035B	WV14 8DF	Two storey Four in block		4		4		
STOWLAWN PROJECTS TEAM	Middleway Green	WV14 6DJ	Area Office		4		4		
	Milfields Rd	WV4 6JW	Area Office		4		4		
	Milfields Rd	WV4 6JW	Joiners Shop		4		4		
	Minsterley Close 003	WV3 7JB	Three storey Three in block		4		4		
	Minsterley Close 004	WV3 7JB	Three storey Three in block		4		4		
	Minsterley Close 005	WV3 7JB	Three storey Three in block		4		4		
	Minsterley Close 006	WV3 7JB	Three storey Three in block		4		4		
	Minsterley Close 007	WV3 7JB	Three storey Three in block		4		4		
	Minsterley Close 008	WV3 7JB	Three storey Three in block		4		4		
MOATHOUSE	Moathouse Lane East 052	WV11 1NS	Tenant Meeting Room		4		4		
	Moathouse Lane East 033	WV11 3DB	Three storey Three in block		4		4		
	Moathouse Lane East 035	WV11 3DB	Three storey Three in block		4		4		
	Moathouse Lane East 42A-56A	WV11 3DD	Individual entrances		4		4		
	Moathouse Lane East 066-068E	WV11 3DD	Five storey Eleven in block		4		4		
	Mount Pleasant 053A-053D	WV14 7NE	Two storey Four in block		4		4		
	Mount Pleasant 055A-055D	WV14 7NE	Two storey Four in block		4		4		
	Mount Pleasant 084-090	WV14 7NR	Two storey Four in block		4		4		
	Mount Pleasant 092-098	WV14 7NR	Two storey Four in block		4		4		
	Mount Pleasant 100-106	WV14 7NR	Two storey Four in block		4		4		
	Mount Road 127-137	WV14 6LY	Three storey Six in block		4		4		
	Mount Road 139-149	WV14 6LY	Three storey Six in block		4		4		
	Mount Road 156-170	WV14 6LZ	Four storey Eight in block		4		4		
	Mount Road 172-186	WV14 6LZ	Four storey Eight in block		4		4		
	Needwood Drive 001-011	WV4 6BT	Three storey Six in block		4		4		
	Needwood Drive 002-012	WV4 6BT	Three storey Six in block		4		4		
	Needwood Drive 013-023	WV4 6BT	Three storey Six in block		4		4		
	Needwood Drive 014-024	WV4 6BT	Three storey Six in block		4		4		
	New Street 002-008 Ettingshall	WV2 2LR	Two storey Four in block		4		4		
	New Street 010-016 Ettingshall	WV2 2LR	Two storey Four in block		4		4		
	New Street 018-024 Ettingshall	WV2 2LR	Two storey Four in block		4		4		
	Newey Rd 001-011	WV11 2PU	Two storey Six in block		4		4		
	Newey Rd 026-036	WV11 2PU	Two storey Six in block		4		4		
	Newey Rd 053-063	WV11 2PU	Two storey Six in block		4		4		
	North Rd 018A-033A	WV1 1QL	Three storey Six in block		4		4		
	Northwood Park Road 033-043	WV10 8EX	Two storey Six in block		4		4		
	Northwood Park Road 045-055	WV10 8EX	Two storey Six in block		4		4		
	Oak Street 018-024	WV3 0AQ	Two storey Four in block		4		4		
	Oak Street 026-032	WV3 0AQ	Two storey Four in block		4		4		
	Oak Street 034-040	WV3 0AQ	Two storey Four in block		4		4		
	Oak Street 042-048	WV3 0AQ	Two storey Four in block		4		4		
	Oak Street 097-103	WV3 0AQ	Two storey Four in block		4		4		
	Oak Street 105-111	WV3 0AQ	Two storey Four in block		4		4		
	Okement Drive 002-024	WV11 1UZ	Three storey Twelve in block		4		4		
	Okement Drive 026-048	WV11 1UZ	Three storey Twelve in block		4		4		
	Okement Drive 050-072	WV11 1UZ	Three storey Twelve in block		4		4		
	Okement Drive 074-096	WV11 1UZ	Three storey Twelve in block		4		4		
	Okement Drive 098-120	WV11 1UZ	Three storey Twelve in block		4		4		
	Old Heath Road 193-195A	WV1 2RT	Two storey Four in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Old Heath Road 197-199A	WV1 2RT	Two storey Four in block		4		4		
	Old Heath Road 201-203A	WV1 2RT	Two storey Four in block		4		4		
	Old Heath Road 205-215	WV1 2RT	Two storey Four in block		4		4		
	Oxford Street 002-028A	WV14 7DE	Three storey Fifteen in block		4		4		
	Oxford Street 077-105	WV14 7EH	Three storey Fifteen in block		4		4		
	Oxford Street 107-119B	WV14 7EH	Three storey Fifteen in block		4		4		
	Oxford Street 233-287	WV14 7EH	Four storey Twenty Seven in block		4		4		
	Park Cres 005-005A	WV1 4PY	Property being disposed of		4		4		
CLEM ATTLEE COURT	Park View Rd	WV14	Hi Rise Block		4		4		
WINSTON CHURCHILL COURT	Park View Rd	WV14	Hi Rise Block - see FRA03		4		4		
WINSTON CHURCHILL CT & STOWLAWN CONCIERGE	Park View Rd	WV14 6HF	High - Hi Rise & Concierge Office		4		4		
HUGH GAITSKELL COURT	Park View Rd	WV14 6HE	Sheltered Scheme		4		4		
STOWLAWN	Park View Rd	WV14 6HB	Tenant Meeting Room		4		4		
	Park Way 001-011	WV11 2NA	Two storey Six in block		4		4		
	Park Way 002-012	WV11 2NA	Two storey Six in block		4		4		
	Parry Road 001-011	WV11 2PS	Two storey Six in block		4		4		
	Parry Road 002-012	WV11 2PS	Two storey Six in block		4		4		
	Peacock Avenue 001-011	WV11 2PR	Two storey Six in block		4		4		
	Peacock Avenue 002-012	WV11 2PR	Two storey Six in block		4		4		
	Peacock Avenue 014-024	WV11 2PR	Two storey Six in block		4		4		
	Peacock Avenue 033-043	WV11 2PR	Two storey Six in block		4		4		
	Peacock Avenue 034-044	WV11 2PR	Two storey Six in block		4		4		
	Peacock Avenue 045-055	WV11 2QJ	Two storey Six in block		4		4		
	Peacock Avenue 046-056	WV11 2QJ	Two storey Six in block		4		4		
	Peacock Avenue 065-075	WV11 2QJ	Two storey Six in block		4		4		
	Pendeford Close 001-006	WV6 EW	Two storey Six in block		4		4		
	Perks Road 001-011	WV11 2ND	Two storey Six in block		4		4		
	Perks Road 002-012	WV11 2ND	Two storey Six in block		4		4		
GREGORY COURT	Pickering Rd	WV11	Hi Rise Block		4		4		
LATHE COURT	Pickering Rd	WV11	Hi Rise Block see FRA20		4		4		
GROSVENOR COURT	Pickering Rd	WV11 3RD	Sheltered Scheme		4		4		
	Pinfold Lane 151-161	WV4 4HD	Two storey Six in block		4		4		
	Pirbright Close 010-014	WV14 8PZ	Two storey Four in block		4		4		
	Pirbright Close 015-018	WV14 8PZ	Two storey Four in block		4		4		
	Pirbright Close 019-022	WV14 8PZ	Two storey Four in block		4		4		
HICKMAN TMR	Plym Close	WV11 1QP	Tenant Meeting Room		4		4		
	Pond Lane 001-011	WV2 1HE	Two storey Six in block		4		4		
	Pond Lane 013-015A	WV2 1HE	Two storey Four in block		4		4		
	Pond Lane 041-051	WV2 1HF	Two storey Six in block		4		4		
	Pool Hall Crescent 001-001BC	WV3 8LA	Three storey Three in block		4		4		
	Pool Hall Road 012-012B	WV3 8JZ	Three storey Three in block		4		4		
	Primrose Avenue 011-021	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 023-033	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 035-045	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 047-057	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 059-069	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 071-081	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 083-093	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 095-105	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 107-117	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 119-129	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 131-141	WV10 8AW	Three storey Six in block		4		4		
	Primrose Avenue 143-153	WV10 8AW	Three storey Six in block		4		4		
	Prince Charles Road 001A-001B + 17A,B Edinburgh Road	WV14 8EG	Two storey Four in block		4		4		
	Prince Charles Road 002A-004B	WV14 8EG	Two storey Four in block		4		4		
	Prince Charles Road 022A-024B	WV14 8EG	Two storey Four in block		4		4		
	Prince Charles Road 023A-025B	WV14 8EG	Two storey Four in block		4		4		
	Princess Anne Road 014A-016B	WV14 8EJ	Two storey Four in block		4		4		
	Princess Anne Road 029A-031B	WV14 8EJ	Two storey Four in block		4		4		
	Princess Court 001-006	WV10 ORL	Three storey Six in block		4		4		
	Princess Court 007-012	WV10 ORL	Three storey Six in block		4		4		
	Princess Court 013-018	WV10 ORL	Three storey Six in block		4		4		
	Princess Court 019-024	WV10 ORL	Three storey Six in block		4		4		
	Princess Court 025-030	WV10 ORL	Three storey Six in block		4		4		
	Princess Court 031-036	WV10 ORL	Three storey Six in block		4		4		
	Princess Court 037-042	WV10 ORL	Three storey Six in block		4		4		
	Prouds Lane 071-077	WV14 6QB	Two storey Four in block		4		4		
	Prouds Lane 079-085	WV14 6QB	Two storey Four in block		4		4		
	Prouds Lane 087-093	WV14 6QB	Two storey Four in block		4		4		
	Purslet Road 003-005A	WV1 2NG	Two storey Four in block		4		4		
	Purslet Road 004-006A	WV1 2NG	Two storey Four in block		4		4		
	Purslet Road 007-009A	WV1 2NG	Two storey Four in block		4		4		
	Purslet Road 008-010A	WV1 2NG	Two storey Four in block		4		4		
	Queens Court 001-006	WV10 ORN	Three storey Six in block		4		4		
	Queens Court 007-012	WV10 ORN	Three storey Six in block		4		4		
	Queens Court 013-018	WV10 ORN	Three storey Six in block		4		4		
	Queens Court 019-024	WV10 ORN	Three storey Six in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Queens Court 025-030	WV10 0RN	Three storey Six in block		4		4		
	Queens Court 031-036	WV10 0RN	Three storey Six in block		4		4		
	Queens Court 037-042	WV10 0RN	Three storey Six in block		4		4		
	Raleigh Road 051-057	WV14 8ED	Two storey Four in block		4		4		
	Raleigh Road 059-065	WV14 8ED	Two storey Four in block		4		4		
	Ratcliffe Road 003A - 003F	WV11 3PA	Two storey Six in block		4		4		
	Ratcliffe Road 004A - 004F	WV11 3PA	Two storey Six in block		4		4		
	Redcotts Close 001-007	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 002-012	WV10 8RF	Two storey Six in block		4		4		
	Redcotts Close 009-017	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 014-026	WV10 8RF	Two storey Six in block		4		4		
REDCOTT'S CLOSE	Redcotts Close 018-032	WV10 8RF	Sheltered Scheme		4		4		
	Redcotts Close 019-025	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 027-033	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 035-041	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 043-049	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 051-057	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 056-066	WV10 8RF	Two storey Six in block		4		4		
	Redcotts Close 059-065	WV10 8RF	Two storey Four in block		4		4		
	Redcotts Close 068-074	WV10 8RF	Two storey Four in block		4		4		
	Redhurst Drive 001-005A	WV10 6QN	Two storey Six in block		4		4		
	Redhurst Drive 019- 23A	WV10 6QN	Two storey Six in block		4		4		
	Redhurst Drive 035-039A	WV10 6QN	Two storey Six in block		4		4		
THE POYNINGS	Reais Road	WV6 8QN	Sheltered Scheme		4		4		
	Renton Grove 001-006	WV10 6XG	Two storey Six in block		4		4		
	Renton Grove 030-035	WV10 6XG	Two storey Six in block		4		4		
	Renton Road 262-272	WV10 6XD	Two storey Six in block		4		4		
	Ridge Lane 082-092	WV11 3TU	Three storey Six in block		4		4		
	Ridge Lane 094-104	WV11 3TU	Three storey Six in block		4		4		
	Ridge Lane 106-116	WV11 3TU	Three storey Six in block		4		4		
	Ridge Lane 118-128	WV11 3TU	Three storey Six in block		4		4		
	Rocket Pool Drive 072-078	WV14 8BD	Two storey Four in block		4		4		
	Rocket Pool Drive 084-090	WV14 8BD	Two storey Four in block		4		4		
	Rocket Pool Drive 112-114	WV14 8BD	unenclosed access to flat entrance doors		4		4		
	Rocket Pool Drive 116-118	WV14 8BD	unenclosed access to flat entrance doors		4		4		
	Rocket Pool Drive 120-122	WV14 8BD	unenclosed access to flat entrance doors		4		4		
	Rocket Pool Drive 124-126	WV14 8BD	unenclosed access to flat entrance doors		4		4		
	Rocket Pool Drive 128-130	WV14 8BD	unenclosed access to flat entrance doors		4		4		
	Rocket Pool Drive 132-134	WV14 8BD	unenclosed access to flat entrance doors		4		4		
	Rocket Pool Drive 136	WV14 8BD	unenclosed access to flat entrance doors		4		4		
PARKFIELDS	Rough Hill Road	WV2 2HH	Area Office		4		4		
	Rudge Avenue 001-003A	WV1 2AS	Two storey Four in block		4		4		
	Rudge Avenue 002-004A	WV1 2AT	Two storey Four in block		4		4		
	Rudge Avenue 018-020A	WV1 2AT	Two storey Four in block		4		4		
	Rudge Avenue 025-027A	WV1 2AS	Two storey Four in block		4		4		
	Rudge Avenue 034-036A	WV1 2AT	Two storey Four in block		4		4		
	Rudge Avenue 038-040A	WV1 2AT	Two storey Four in block		4		4		
	Rudge Avenue 041-043A	WV1 2AS	Two storey Four in block		4		4		
	Ryton Close 011-012A	WV10 0QN	Two storey Four in block		4		4		
	Salop Street 032A-034B	WV14 0TQ	Two storey Four in block		4		4		
	Salop Street 070-076	WV14 0TQ	Two storey Four in block		4		4		
	Salop Street 078-084	WV14 0TQ	Two storey Four in block		4		4		
	Sandy Crescent 002-012	WV11 2LU	Two storey Six in block		4		4		
	Sandy Hollow 001-006	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 007-012	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 014-019	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 020-025	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 026-031	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 032-037	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 038-043	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 044-049	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 050-055	WV6 8LF	Three storey Six in block		4		4		
	Sandy Hollow 056-061	WV6 8LF	Three storey Six in block		4		4		
LAUNDRY	Sandy Hollow Laundry	WV6 8LF	MISCELLANEOUS PROPERTIES		4		4		
	Second Avenue 045-049A	WV10 9PE	Two storey Six in block		4		4		
THE LUNT	Selwyn Road 038	WV14 7AA	Returned to tenancy		4		4		
THE MEWS	Shaw Road	WV14 8PU	Sheltered Scheme		4		4		
LOW HILL	Showell Circus	WV10 9BA	Area Office		4		4		
	Sidwick Crescent 001-025	WV2 2NZ	Three storey Nine in block		4		4		
	Sidwick Crescent 014-030	WV2 2NZ	Three storey Nine in block		4		4		
	Sidwick Crescent 040-056	WV2 2NZ	Three storey Nine in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Skemp Close 001A-002B	WV14 0JY	Two storey Four in block		4		4		
	Skemp Close 003A-004B	WV14 0JY	Two storey Four in block		4		4		
	Skemp Close 005A-006B	WV14 0JY	Two storey Four in block		4		4		
	Skemp Close 007A-008B	WV14 0JY	Two storey Four in block		4		4		
	Slater Street 001-007	WV14 8PF	Two storey Four in block		4		4		
	Slater Street 009-013	WV14 8PF	Two storey Two in block		4		4		
	Slater Street 011-015	WV14 8PF	Two storey Two in block		4		4		
	Slater Street 017-021	WV14 8PF	Two storey Two in block		4		4		
	Slater Street 019-023	WV14 8PF	Two storey Two in block		4		4		
	Slater Street 025-031	WV14 8PF	Two storey Four in block		4		4		
	Slim Ave 002-018	WV14 8	unenclosed access to flat entrance doors		4		4		
	Slim Avenue 020-030	WV14 8RY	Three storey Six in block		4		4		
	Snake Road 013-023	WV11 2NP	Two storey Six in block		4		4		
FORDHOUSES	St Annes Rd 002	WV10 6SP	TMO and Meeting Rooms		4		4		
	St Martins Terrace 002-002A	WV14 8PG	Two storey Two in block		4		4		
	St Martins Terrace 004-004A	WV14 8PG	Two storey Two in block		4		4		
	St Martins Terrace 030-032A	WV14 8PG	Two storey Two in block		4		4		
	St Micheals Court 007-012	WV6 9AD	Three storey Six in block		4		4		
	St Micheals Court 013-018	WV6 9AD	Three storey Six in block		4		4		
	St Micheals Court 019-026	WV6 9AD	Four storey Eight in block		4		4		
	St Micheals Court 027-034	WV6 9AD	Four storey Eight in block		4		4		
	St Micheals Court 035-042	WV6 9AD	Four storey Eight in block		4		4		
	St Micheals Court 043-048	WV6 9AE	Three storey Six in block		4		4		
	St Micheals Court 049-054	WV6 9AE	Three storey Six in block		4		4		
	St Micheals Court 055-060	WV6 9AE	Three storey Six in block		4		4		
	St Micheals Court 061-066	WV6 9AE	Three storey Six in block		4		4		
	St Micheals Court 067-070	WV6 9AE	Two storey Four in block		4		4		
	St Micheals Court 071-074	WV6 9AE	Two storey Four in block		4		4		
	St Philips Grove 001-011	WV3 7BZ	Two storey Six in block		4		4		
	St Philips Grove 013-023	WV3 7BZ	Two storey Six in block		4		4		
	Star Street 005AB-009AB	WV3 9BL	Three storey Two in block		4		4		
	Star Street 017AB-018AB	WV3 9BL	Three storey Two in block		4		4		
	Star Street 021-022	WV3 9BL	Three storey Two in block		4		4		
	Station Road 001A-003B	WV14 0NY	Two storey Four in block		4		4		
	Station Road 005A-007B	WV14 0NY	Two storey Four in block		4		4		
	Station Road 009A-011B	WV14 0NY	Two storey Four in block		4		4		
	Station Road 013A-015B	WV14 0NY	Two storey Four in block		4		4		
	Station Road 017A-019B	WV14 0NY	Two storey Four in block		4		4		
	Stowheath Lane 101-105A	WV1 2QH	Two storey Six in block		4		4		
	Stubby Lane 082A-082F	WV11 3NJ	Two storey Six in block		4		4		
	Studley Road 001A-003C	WV3 9BB	Two storey Six in block		4		4		
	Studley Road 002A-004C	WV3 9BB	Two storey Six in block		4		4		
SWANMORE CENTRE	Swanmore Close	WV3 7JY	Sheltered Scheme		4		4		
	Tame Street 013-019	WV14 7EL	Two storey Four in block		4		4		
	Tame Street 034-040	WV14 7EL	Two storey Four in block		4		4		
	Tame Street 042-048	WV14 7EL	Two storey Four in block		4		4		
	Tame Street 050-056	WV14 7EL	Two storey Four in block		4		4		
	Temple Street 002-030	WV14 0NU	Three storey Fifteen in block		4		4		
	Temple Street 033A-035B	WV14 0NU	Two storey Four in block		4		4		
	Temple Street 039A-041B	WV14 0NU	Two storey Four in block		4		4		
THE WHITEHOUSE	Tottenham Road 251-253	WV6 9BW	Sheltered Scheme		4		4		
	The Crescent 002-030	WV14 0DA	Three storey Fifteen in block		4		4		
WHITMORE CONCIERGE	The Elms - Evans Street	WV6 0PW	see FRA86		4		4		
	Thornton Road 002-004A	WV1 2QQ	Two storey Four in block		4		4		
	Thornton Road 012-014A	WV1 2QQ	Two storey Four in block		4		4		
	Thornton Road 030-032A	WV1 2QQ	Two storey Four in block		4		4		
	Thornton Road 034-038A	WV1 2QQ	Two storey Four in block		4		4		
	Tilbury Close 010	WV3 8JW	Three storey Three in block		4		4		
	Tilbury Close 011	WV3 8JW	Three storey Three in block		4		4		
	Tilbury Close 012	WV3 8JW	Three storey Three in block		4		4		
	Tilbury Close 013	WV3 8JW	Three storey Three in block		4		4		
	Tilbury Close 014	WV3 8JW	Three storey Three in block		4		4		
	Tilbury Close 015	WV3 8JW	Three storey Three in block		4		4		
LONGFIELD HOUSE	Title Croft	WV10	Hi Rise Block		4		4		
	Title Croft 002-048	WV10 0HT	Four storey Twenty three in block		4		4		
WEDNESFIELD	Title Road 044	WV11 1NS	Tenant Meeting Room		4		4		
WILLIAM BENTLEY COURT	Torridge Drive	WV11	Hi Rise Block		4		4		Rope Decent Cleaning is required
WODENSFIELD TOWER HICKMAN CONCIERGE	Torrige Drive	WV11 1QP	High - Hi Rise & Concierge Office		4		4		Rope Decent Cleaning is required
	Torrige Drive 001-025	WV11 1XL	Three storey Twelve in block		4		4		
	Torrige Drive 027-049	WV11 1XL	Three storey Twelve in block		4		4		
LINCOLN HOUSE	Tremont Street	WV10 0JB	Sheltered Scheme		4		4		
TREMONT HOUSE	Tremont Street	WV10 0JD	Sheltered Scheme		4		4		
	Trysull Road 022-028	WV3 7HU	Three storey Two in block		4		4		
	Tyburn Road 002-012	WV1 2PU	Three storey Six in block		4		4		
	Tyburn Road 014-024	WV1 2PU	Three storey Six in block		4		4		
	Tyburn Road 026-036	WV1 2PU	Three storey Six in block		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Upper Street 012-026	WV6 8QF	Four storey Eight in block		4		4		
	Upper Street 021-035	WV6 8QF	Four storey Eight in block		4		4		
	Upper Street 028-042	WV6 8QF	Four storey Eight in block		4		4		
	Upper Street 037-051	WV6 8QF	Four storey Eight in block		4		4		
	Upper Street 053-071	WV6 8QF	Four storey Eight in block		4		4		
VAUXHALL CONCIERGE & TMR	Upper Vauxhall	WV1 4SY	Concierge Offices & Tenant Meeting Room		4		4		
CONNAUGHT HOUSE	Upper Vauxhall	WV1	Hi Rise Block		4		4		Rope Decent Cleaning is required
SUTHERLAND HOUSE	Upper Vauxhall	WV1	Hi Rise Block		4		4		Rope Decent Cleaning is required
VAUXHALL HOUSE	Upper Vauxhall	WV1	Hi Rise Block		4		4		Rope Decent Cleaning is required
VAUXHALLS	Upper Vauxhall	WV1 4SY	see FRA25		4		4		
	Upper Vauxhall 02-40	WV1 4TA	Four storey Twenty in block		4		4		
	Vauxhall Avenue 002-032	WV1 4TA	Four storey Sixteen in block		4		4		
	Vernon Close 002-012	WV13 3TF	Three storey Six in block		4		4		
	Vernon Close 014-024	WV13 3TF	Three storey Six in block		4		4		
	Wallace Road 013A-015B	WV14 8BU	Two storey Four in block		4		4		
	Wallace Road 025A-027B	WV14 8BU	Two storey Four in block		4		4		
MEMORIAL HALL	Ward Street	WV14 9LQ	Tenant Meeting Room		4		4		
	Warstones Drive 150-164	WV4 4NJ	Four storey Eight in block		4		4		
	Warstones Drive 166-182	WV4 4NJ	Four storey Eight in block		4		4		
	Warstones Gardens 001-006	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 007-012	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 013-016	WV4 4 PD	Two storey Four in block		4		4		
	Warstones Gardens 017-020	WV4 4 PD	Two storey Four in block		4		4		
	Warstones Gardens 021-026	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 027-032	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 033-038	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 039-044	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 045-048	WV4 4 PD	Two storey Four in block		4		4		
	Warstones Gardens 049-052	WV4 4 PD	Two storey Four in block		4		4		
	Warstones Gardens 053-058	WV4 4 PD	Two storey Four in block		4		4		
	Warstones Gardens 059-064	WV4 4 PD	Three storey Six in block		4		4		
	Warstones Gardens 065-070	WV4 4 PE	Three storey Six in block		4		4		
	Warstones Gardens 071-076	WV4 4 PE	Three storey Six in block		4		4		
	Warstones Gardens 077-082	WV4 4 PE	Three storey Six in block		4		4		
	Warstones Gardens 083-088	WV4 4 PE	Three storey Six in block		4		4		
	Warstones Gardens 089-094	WV4 4 PE	Three storey Six in block		4		4		
	Warstones Road 128-142A	WV4 4LH	Three storey Six in block		4		4		
LAUNDRY	Wednesfield Laundry	WV10 0EA	MISCELLANEOUS PROPERTIES		4		4		
	Wednesfield Road 020-082	WV10 0EA	Four storey Thirty two in block		4		4		
	Wednesfield Road 084-118	WV10 0JE	Four storey Eight in block		4		4		
	Wesley St 002-006 Ettingshall	WV2	Two storey Two in block		4		4		
	Wesley St 004-008 Ettingshall	WV2	Two storey Two in block		4		4		
	Wesley Street bradley 002-008	WV14 8TX	Two storey Four in block		4		4		
	Wesley Street bradley 010-016	WV14 8TX	Two storey Four in block		4		4		
	Wesley Street bradley 026-032	WV14 8TX	Two storey Four in block		4		4		
	Westacre Crescent 002	WV3 9AJ	Three storey Three in block		4		4		
	Westacre Crescent 004	WV3 9AJ	Three storey Three in block		4		4		
	Westacre Crescent 006	WV3 9AJ	Three storey Three in block		4		4		
	Westacre Crescent 008	WV3 9AJ	Three storey Three in block		4		4		
	Westacre Crescent 078-80ABC	WV3 9AY	Two storey Six in block		4		4		
	Westcroft Avenue 073 - 083	WV10 8LN	Two storey Two flats above shops		4		4		
	White Oak Drive 002	WV3 9AH	Three storey Three in block		4		4		
	White Oak Drive 004	WV3 9AH	Three storey Three in block		4		4		
OLD HEATH	Willenhall Road 073	WV1 2HJ	Area Office		4		4		
	Willenhall Road 336-346	WV1 2JB	Two storey Six in block		4		4		
	Willenhall Road 387-397	WV1 2JB	Three storey Six in block		4		4		
	Willenhall Road 399-409	WV1 2JB	Three storey Six in block		4		4		
	Willenhall Road 411-421	WV1 2JB	Three storey Six in block		4		4		
	Willenhall Road 423-433	WV1 2JB	Three storey Six in block		4		4		
	Willenhall Road 659-669	WV13 3LH	Three storey Six in block		4		4		
	Willenhall Road 671-687	WV13 3LH	Three storey Nine in block		4		4		
	Willenhall Road 689-699	WV13 3LH	Three storey Six in block		4		4		
	Willenhall Road 701-711	WV13 3LH	Three storey Six in block		4		4		
	Willenhall Road 713-723	WV13 3LH	Three storey Six in block		4		4		
	Willenhall Road 725-735	WV13 3LH	Three storey Six in block		4		4		
	Willenhall Road 737-753	WV13 3LH	Three storey Nine in block		4		4		
	Willenhall Road 749-753 Part of FRA523	WV13 3LH	Three storey Nine in block		4		4		
	Willenhall Road 755-765	WV13 3LH	Three storey Six in block		4		4		
	Willis Pearson Avenue 001A-003B	WV14 8DA	Two storey Four in block		4		4		
	Willis Pearson Avenue 002A-004B	WV14 8DA	Two storey Four in block		4		4		
	Winchester Road 158-162A	WV10 6HA	Two storey Six in block		4		4		
	Winchester Road 176-180A	WV10 6HA	Two storey Six in block		4		4		
	Winchester Road 194-198A	WV10 6HA	Two storey Six in block		4		4		
	Winchester Road 204-208A	WV10 6HA	Two storey Six in block		4		4		
	Windmill Lane 78A-80A	WV3 8HG	Three storey Two in block above shops		4		4		

Property Title	Address	Postcode	Property Type	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Comments
	Windmill Lane 82A-84A	WV3 8HG	Three storey Two in block above shops		4		4		
	Windmill Lane 86A-88A	WV3 8HG	Three storey Two in block above shops		4		4		
	Windmill Lane 90A-92A	WV3 8HG	Three storey Two in block above shops		4		4		
	Windmill Lane 94A-96A	WV3 8HG	Three storey Two in block above shops		4		4		
	Windsor Road 001-007	WV4 6HX	Two storey Four in block		4		4		
	Windsor Road 006-012	WV4 6HX	Two storey Four in block		4		4		
	Windsor Road 009-015	WV4 6HX	Two storey Four in block		4		4		
	Winster Road 011-023	WV1 2EQ	Two storey Six in block		4		4		
	Winster Road 012-022	WV1 2EQ	Two storey Six in block		4		4		
	Wolverhampton Road 094-098A	WV10 0QB	Two storey Six in block		4		4		
	Wolverhampton Road 100-104A	WV10 0QB	Two storey Six in block		4		4		
	Wolverhampton St 052A-054B	WV14 0LT	Two storey Four in block		4		4		
	Wolverhampton Street 58-70	WV14 0HL	Three storey Five in block		4		4		
	Wolverhampton Street 72-84	WV14 0HL	Three storey Five in block		4		4		
	Wood End Road 355-365	WV11 1YG	Three storey Six in block		4		4		
	Wood End Road 367-377	WV11 1YG	Three storey Six in block		4		4		
	Woodcross Street 001-008	WV14 9RT	Two storey Eight in block		4		4		
	Woodcross Street 132-135	WV14 9RT	Two storey Four in block		4		4		
	Woodhouse Rd North 059-065B	WV6 8JD	Three storey Twelve in block		4		4		
	Woodhouse Rd North 095-101B	WV6 8JD	Three storey Twelve in block		4		4		
	Woodside 002-012	WV11 2PT	Two storey Six in block		4		4		
	Woodstock Road 002-006A	WV1 2DT	Two storey Six in block		4		4		
	Woodstock Road 031-035A	WV1 2DT	Two storey Six in block		4		4		
	Woodstock Road 037-041A	WV1 2DT	Two storey Six in block		4		4		
	Wyrley Road 009A-009F	WV11 3NY	Two storey Six in block		4		4		
	Wyrley Road 050A-050F	WV11 3NY	Two storey Six in block		4		4		
	Zoar Street 001-057	WV3 0PG	Four storey Twenty six in block		4		4		

Establishment	Contact/Tel	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Additional Information
Adult & Community Services							
Adult Services Directorate, St Judes Rd, Tettenhall, WV6 0BE	Jim Duffy 01902 553597		6		6		Int & Ext
Albert Road Day Centre, 25-38 Albert Road, Wolverhampton, WV6 0AF	01902 553354		6		6		Int & Ext (kitchen porch & corridor lights)
Albert Road Day Centre, 25-38 Albert Road, Wolverhampton, WV6 0AF	01902 553354		On Request		On Request		Skylights
North East Adults, Alfred Squire Road, Wednesfield, WV11 1XU	K Parker 01902 553606		6		6		Int & Ext (Internal glass shades on lamp fittings on 2 staircases)
Blakenhall OPH, Hagger Street, Blakenhall, WV2 3ET	Carol Smith 01902 443547		6		6		Int & Ext
Blakenhall OPH, Hagger Street, Blakenhall, WV2 3ET	Carol Smith 01902 443547		On Request		On Request		Skylights
Bradley Lodge CRC, Lord Street, Bradley WV3 0QL	Lesley Campbell 01902 553414		6		6		Int & Ext
Bradley Lodge CRC, Lord Street, Bradley WV3 0QL	Lesley Campbell 01902 553414		On Request		On Request		Skylights
Comer House Resource Centre, Dunstall Road, WV6 0NU	01902 553382		6		6		Int & Ext
Duke Street Bungalows, 21.22 & 25, Duke Street, Wednesfield, WV11 7TH	01902 552989		6		6		External
Ernest Bold Resource Centre, Wolverhampton Street, Bilston WV14 0LX	01902 552817		6		6		Interior & Exterior
Independent Living Services, Neville Garrett Centre, Bell Street, WV1 3PR	01902 553919		4		4		Int & Ext
Learning Disability Unit, 50-51 Bungalows, Sweetman St, Whitmore Reans, WV6 0EN	01902 553380		6		6		External (clean after 9 am)
Lower Bradley Community Centre, Wallace Road, Bradley WV14 8BW			On Request		On Request		Int & Ext
Mallings Day Centre, Hebert Street, WV 1NQ	Brenda Stafford 01902 553411		6		6		Int & Ext
Merry Hill House, The Bungalow, Flat 1, Langley Road, Merry Hill, WV4 4YT	01902 559935		6		6		Int & Ext
Merry Hill OPC, Langley Road, Merry Hill, WV4 4YT	John Lem 01902 553397		6		6		Int & Ext (Extractors)
Nelson Mandela House, Whitburn Close, Pendeford, WV9 5NJ	Lesley Campbell 01902 553414		6		6		Int & Ext (15 internal glazed doors)
Nelson Mandela House, Whitburn Close, Pendeford, WV9 5NJ	Lesley Campbell 01902 553414		On Request		On Request		10 Skylights approx.
Neville Garratt Centre, Bell Street, WV1 3PR	Richard Cole 01902 553657		6		6		Int & Ext
Oxley Adult TC, Probert Road, Oxley, WV10 6UF	Linda Bradburn 01902 553341		6		6		Int & Ext (High set of windows, which have to be cleaned from flat roof)
Oxley Day Centre, "The Mobile", Probert Road, Oxley, WV10 6UF	Linda Bradburn 01902 553341		6		6		Int & Ext
Oxley Day Centre, "The Spinney", Probert Road, WV10 6UF	Linda Bradburn 01902 553341		6		6		Int & Ext
Oxley Moor House, Probert Road, Oxley, WV10 6UF	Tony Churchill 01902 550913		6		6		Int & Ext
Recovery House, 46a Second Ave, Low Hill, Wolverhampton, WV10 9PE	01902 553316		6		6		Int & Ext
South West Adults, Beckminster House, Birches Barn Road, WV3 7BJ	01902 553700		6		6		Int & Ext (to include room 8 windows)
Stowheath Adult TC (Day Centre), Stowheath Lane, Bilston, WV1 2TW	01902 553346		6		6		External (Roof lights and 26 windows above 16ft)
The Croft, Greencroft, Bilston, WV14 0DQ	01902 553823		6		6		External (+interior landing windows & light fittings on main entrance landing & officers accommodation)
The Croft Resource Annex, Bow St, LDU, WV14 7NB			2		2		Int & Ext
Transport Services, Unit 5, Kennedy Road, WV10 0LL	Paul Falconbridge 01902 554883		6		6		Int & Ext
Warstones Resource Centre, Warstones Drive, Penn, WV4 4PQ	Stephanie Humpherson 01902 553462		6		6		Int & Ext
Woden House Resource Centre, Vicarage Road, Wednesfield, WV11 1SF	01902 553494		6		6		Int & Ext (includes upstairs & conservatory windows, pm clean only)
Archives, Molineux Hotel Building, Whitmore Hill, Wolverhampton WV1 1SF			4		4		Int & Ext
Art Gallery							
Art Galleries & Museum, Lichfield Street, WV1 1DU (External)	01902 552055		6		6		External
Art Galleries & Museum, Lichfield Street, WV1 1DU (Internal)	01902 552055		6		6		Internal
Art Galleries & Museum Red Brick Bldg, Lichfield Street, WV1 1DU	01902 552055		6		6		Int & Ext
Art Gallery Makers Dozen Studios, Lichfield Street, WV1 1DU	Pat Jones 01902 552397		6		6		INVOICE SEPERATELY Exterior
Art Gallery Shop, Lichfield Street, WV1 1DU	01902 552055		6		6		Internal
Art Gallery Shop, Lichfield Street, WV1 1DU	01902 552055		26		26		External
Tourist Information Centre, Queen St, WV1 1TQ - 1st Floor	Jill Hopson 01902 556110		6		6		Int & Ext
Tourist Information Centre, Queen St, WV1 1TQ - 2nd Floor	Jill Hopson 01902 556110		6		6		Int & Ext
Tourist Information Centre, Queen St, WV1 1TQ- 3rd Floor	Jill Hopson 01902 556110		6		6		Int & Ext
Tourist Information Centre, Queen St, WV1 1TQ - Shop	Jill Hopson 01902 556110		12		12		Int & Ext
Asylum Seeker Team							
174 Chervil Rise, Heath Town, Wolverhampton WV10 0HP			12		12		
Central Library							
Ashmore Park Library, Griffiths Drive, Wednesfield, WV11 2JW	Judith Aldridge 01902 556296		4		4		Int & Ext
Bilston Library, Mount Pleasant, Bilston, WV14 7LU	01902 556253		4		4		Int & Ext
Central Library, Snow Hill, Wolverhampton WV1 3AX	Karen Lees 01902 552010		4		4		Int & Ext
Collingwood Branch Library, 24 The Broadway, Bushbury, WV10 8EB	01902 556302		4		4		Int & Ext
Eastfield Library (East Park), Hurstbourne Crescent, WV1 2EE	Kevin Hudson 01902 556258		4		4		Int & Ext
Finchfield Library, White Oak Drive, Finchfield, WV3 9AF	Linda Tew 01902 556260		4		4		Int & Ext
LongKnowle Library, Wood End Road, Wednesfield, WV11 1YG	01902 556290		4		4		Int & Ext
Low Hill Library, Showell Circus, Low Hill, WV10 9JJ	01902 556293		4		4		Int & Ext
Pendeford Library, Whitburn Close, Pendeford, WV9 5NJ	Jackie Mannix 01902 556250		4		4		Int & Ext
Penn Library, Coalway Avenue, Penn Road, WV3 7LT	Patricia Andrews 01902 556281		4		4		Int & Ext
Springvale Library, Bevan Avenue, Bilston, WV4 6SG	Denise Jones 01902 556284		4		4		Int & Ext
Tettenhall Library, St. Michaels Parish Centre, Upper Street, WV6 8QF	Kate Tomkys 01902 536308		4		4		Int & Ext
Warstones Library, Pinfold Grove, Warstones, WV4 4PT	Karon Reynolds 01902 556275		4		4		Int & Ext
Wednesfield Library, Church Street, Wednesfield, WV11 1SR	Carol Howarth 01902 556278		4		4		Int & Ext
Whitmore Reans Library, Bargate Drive, Whitmore Reans, WV6 0QW	Amarjit Kaur 01902 556269		4		4		Int & Ext
Children & Young People							
Barnhurst Children's Centre, Grangefield Close, Ryefield, Pendeford, WV8 1XF	01902 553282		6		6		Int & Ext (+ high int windows, int & ext skylight & strip lighting covers in main play area)
Blakenhall Family Resource Centre, Derry Street, WV2 1HB	01902 553547		6		6		Int & Ext
Family Advice and Support team, 17 Bramerton Close, Wednesfield, WV11 1RT	01902 553239		On Request		On Request		Ext (+ inside landing windows)
Family Support East, 290 Chervil Rise, Heath Town, WV10 0HR	01902 553155		6		6		Int & Ext
Looked After Service, Beldray Building, 66 Mount Pleasant, Bilston, WV14 7PR	01902 553037		6		6		Int & Ext
Low Hill Community Centre, Kempthorne Avenue, Low Hill WV10 9JJ			6		6		Int & Ext Order
Red Gables, 83 Compton Road, Wolverhampton WV3 9QH			6		6		Int & Ext Order
Stowheath House, 47 Stowheath Lane, Wolverhampton WV1 2TW	Sandra Perrins 01902 553344		6		6		External
Upper Pendeford Farm Childrens Home, Wobaston Road, Wolverhampton WC9 5EU			4		4		
54 Windmill Lane, Castlecroft, WV3 8HG	01902 553290		6		6		Int & Ext (+ kitchen, corridor & porch lights)
Epic Youth Café, 11-15 Lichfield Street, Wolverhampton, WV1 1EA	Lisa Read-Arnold 01902 551975		4		4		Int & Ext
Education Services							

Establishment	Contact/Tel	Cost per Int Clean	Freq. of Int Clean p/a	Cost per Ext Clean	Freq. of Ext Clean p/a	Total Cost p/annum	Additional Information
Aldersley Leisure Village, Aldersley Road, Wolverhampton WV6 9NW			12		12		Put Month on Invoice
Sure Start - Bilston and Ettingshall, Crescent House, the Crescent, Bilston WV14 0BZ			12		12		Int & Ext
Early Excellence Centre, Wolverhampton St, bilston WV14 0LT			6		6		Canopy
Early Excellence Centre, Wolverhampton St, bilston WV14 0LT			6		6		Int & Ext
EKTA Day Centre, Mander Street, Penn Fields, Wolverhampton WV3 0JE	01902 553554		6		6		Int & Ext
EKTA Day Centre, Mander Street, Penn Fields, Wolverhampton WV3 0JE	01902 553554		On Request		On Request		Grilled Windows Wash down
West Midlands Pensions Fund, Mander House, Mander Centre, Wolverhampton WV1 3NH			12		12		5th Floor Interior & Partitions
West Midlands Pensions Fund, Mander House, Mander Centre, Wolverhampton WV1 3NH			12		12		6th Floor Interior & Partitions
West Midlands Pensions Fund, Mander House, Mander Centre, Wolverhampton WV1 3NH			12		12		7th Floor Interior & Partitions
Poplar House, Pendeford Campus, Marsh Lane, Pendeford, WV10 6SE			6		6		1st & 2nd Floor Stairs
Poplar House, 1st Floor, BFS Team, WV10 6SE			6		6		Regular
Poplar House, 2nd Floor, BFS Team, WV10 6SE			6		6		Regular
Poplar House, Wolverhampton CYP (FMS team), WV10 6SE			6		6		Specified windows only
Shoptability, 12 Cleveland Street, WV1 3HH			6		6		Int & Ext
The Jennie Lee Centre, Lichfield Road, Wednesfield WV11 3HT			On Request		On Request		Exterior
The Jennie Lee Centre, Dining Room, Wednesfield, WV11 3HT			On Request		On Request		
The Jennie Lee Centre, Main Hall & Reception, WV11 3HT			On Request		On Request		
Education Services							
Adult Education Service, Old Hall Street, Wolverhampton WV1 3AU			4		4		Building 1 Ground floor Interior & Exterior
Adult Education Service, Old Hall Street, Wolverhampton WV1 3AU			4		4		Building 1 Ground floor Interior & Exterior
Adult Education Service, Old Hall Street, Wolverhampton WV1 3AU			2		2		Building 1 Other floors Interior & Exterior
Adult Education Service, Old Hall Street, Wolverhampton WV1 3AU			2		2		Building 2 Other floors Interior & Exterior
Finance Department							
Council Tax Office, St George Square, WV2 1AY	Diana Foster 01902 555814		3		3		Internal only
Low Hill Training Centre, Fifth Avenue,			On request		On request		Int & Ext
Transport Office, Cullwell Street, Wolverhampton WV10 0JN			4		4		Int & Ext (possibly works windows)
Housing & Supported Living							
Tong Court, Boscobel Crescent, Wolverhampton WV1 1QQ	Liz Preston 01902 552854		4		4		WOLVERHAMPTON HOMES 'LOT B'
Hugh Gatskill Court, Parkview Road, Bilston WV14 6HE	01902 497890		4		4		WOLVERHAMPTON HOMES 'LOT B'
Law & Environmental Services							
Bilston Retail Market, 27 Market Way, Bilston, WV14 0DR			6		6		
Bilston Retail Market Canopy			On Request		On Request		
Bushbury Crematorium, Underhill Lane, Bushbury WV10 7JG			4		4		Int & Ext Order
Civic Centre, St Peters Square, WV1 1RG	01902 555085		2		2		External
Civic Centre, St Peters Square, WV1 1RG	01902 555085		1		1		Internal
Civic Centre, St Peters Square, WV1 1RG	01902 555085		12		12		Ground Floor Outside only
Civic Centre, St Peters Square, WV1 1RG	01902 555085		12		12		Doorways Int & Ext
Civic Centre, St Peters Square, WV1 1RG	01902 555085		12		12		Registrars Office
Learning Centre							
City Learning Centre, Lakefield Road, Wednesfield, WV11 3ES	01902 551509		On Request		On Request		Int & Ext
Leisure Services SW Area							
Neil Dougherty Centre, Masefield Road, Scottlands, WV10 8SA	01902 552453		6		6		
Lifelong Learning							
Bantock House & Museum, Bantock Park, Finchfield Road, Bradmore, WV3 9LQ			2		2		floor 3 & conservatory
Bantock House & Museum, Bantock Park, Finchfield Road, Bradmore, WV3 9LQ			6		6		Floors 1 & 2
Bilston Museum, Mount Pleasant, Bilston, WV14 7LU	01902 552505		6		6		Int & Ext
Central Baths, Bath Avenue, WV1 4EG	01902 552140		3		3		Int & Ext
Graisbury Recreational Centre, Pool Street, Graisbury, WV2 4NE	01902 552355		2		2		External
Graisbury Recreational Centre, Pool Street, Graisbury, WV2 4NE	01902 552355		on request		on request		Internal
Park Village Centre, Cannock Road, WV2 0RA	01902 552240		2		2		Int & Ext
Market Division							
Indoor Market, Heantun House, Salop Street, Wolverhampton WV3 0SQ (Market)	01902 554390		2		2		External
Indoor Market, Heantun House, Salop Street, Wolverhampton WV3 0SQ (Office Block)			2		2		Int & Ext
North East Area Office							
The Gorge Nature Reserve Youth Facility, 83 Gorge Road, Sedgley, WV14 9RH			On Request		On Request		
Property Services							
Courts, Wolverhampton Law Court, North Street, Wolverhampton, WV1 1RA			2		2		Interior & Exterior
Courts, Wolverhampton Law Court old Pensions Office, WV1 1RA			2		2		
Pensions, North Street, Red Lion Street, WV1 1RJ	Ruth Gould 01902 554678		2		2		Int & Ext
Pensions, North Street, Red Lion Street, WV1 1RJ	Ruth Gould 01902 554678		2		2		
Resources & Support							
Bond House, St Johns Square, WV2 4AT			6		6		Int & Ext
Site Management							
Bilston Town Hall, Church Street, Bilston WV14 0AT (Lower Level)			6		6		Low Level Int & Ext
Bilston Town Hall, Church Street, Bilston WV14 0AT (Higher Level)			6		6		Access £495, Clean £425 Call R. Knight to move cars 07796981634 - 01902 408850
Bilston Town Hall, Church Street, Bilston WV14 0AT (4 blue painted doors)			3		3		
Site Management, WV1 2BY			6		6		Waste & Recycling, Chillington Fields/Hickman Ave
Social Services							
The Whitehouse, 251-253 Tettenhall Road, WV6 0DE	01902 314738		4		4		Int & Ext

- 4.3 Progress payments
- 4.4 Final payment where Contract Administrator measures and values Orders
- 4.5 Final payment where Contractor measures and values Orders
- 4.6 Payments – final date and amount
- 4.7 Contractor's right of suspension

Section 5 Measurement and Valuation

- 5.1 Definition of Variations
- 5.2 Measurement and Valuation – responsibility
- 5.3 Valuation – measurement
- 5.4 Valuation – daywork
- 5.5 Derived rates
- 5.6 Rates – Fluctuations
- 5.7 Overtime work
- 5.8 Interruption of work – unproductive costs

Section 6 Injury, Damage and Insurance

- 6.1 Liability of Contractor – personal injury or death
- 6.2 Liability of Contractor – injury or damage to property
- 6.3 Injury or damage to property – work and Site Materials excluded
- 6.4 Contractor's insurance of his liability
- 6.5 Excepted Risks
- 6.6 Related definitions
- 6.7 Insurance of existing structures
- 6.8 Evidence of insurance
- 6.9 All Risks Insurance of work or supply comprised in Orders
- 6.10 Insurance documents – failure by Contractor to insure
- 6.11 Use of Contractor's annual policy – as alternative
- 6.12 Notification of occupation and use
- 6.13 Loss or damage, insurance claims and Contractor's obligations
- 6.14 Terrorism Cover – policy extensions and premiums
- 6.15 Terrorism Cover – non-availability – Employer's options

Section 7 Break Provision – Rights of each Party

- 7.1 Break notice
- 7.2 Existing and subsequent Orders

Section 8 Termination for Default, etc.

- 8.1 Meaning of insolvency
- 8.2 Notices under section 8
- 8.3 Other rights, reinstatement
- 8.4 Default by Contractor
- 8.5 Insolvency of Contractor
- 8.6 Corruption
- 8.7 Default by Employer
- 8.8 Insolvency of Employer
- 8.9 Termination by Employer – valuation, certificate and payment
- 8.10 Termination by Contractor – account and payment

Section 9 Settlement of Disputes

- 9.1 Mediation
- 9.2 Adjudication
- 9.3 Arbitration – Conduct of arbitration
- 9.4 Notice of reference to arbitration
- 9.5 Powers of Arbitrator
- 9.6 Effect of award
- 9.7 Appeal – questions of law
- 9.8 Arbitration Act 1996

Schedule Supplemental Provisions

Articles of Agreement

This Agreement is made the 2nd June
26th May 20 15

Between **The Employer** Wolverhampton City Council
of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL

And **The Contractor** RMC Mechanical Services Ltd
(Company No. 05470580)¹⁾
whose registered office is at Unit 1 Steelhouse Road, Wolverhampton, WV2 2AF.

¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires the service and repair of packaged air conditioning and air handling units maintenance and minor works to be carried out in:
- Wolverhampton City Council Buildings (excluding Housing) within the area of the City of Wolverhampton, ("the Contract Area") in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to Issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Employer has appointed a CDM Co-ordinator pursuant to regulation 14(3) of the CDM Regulations to ensure that, where so required by those regulations, a Construction Phase Plan which complies with their requirements is prepared in respect of each project to which an Order relates and that that plan is provided to the Contractor before the commencement of construction work under the relevant Order;
- Fifth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Sixth** the Supplemental Provisions Identified in the Contract Particulars apply;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 11), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to Items 12 and 13).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Chris East

of Head of Facilities Management, City Assets, Place Directorate, Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL.

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.10.1 of the Conditions.

Article 4: CDM Co-ordinator

The CDM Co-ordinator for the purposes of the CDM Regulations is

CH2M Ltd

of Red Hill House, 227 London Road, Worcester, WR5 2JG.

or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies²³, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings²⁴

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

²³ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars must state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" must be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

Contract Particulars

*Note: An asterisk * indicates where selection has been or should have been made.*

- 1 Properties and description of the types of work**
(First Recital)
- 1 List of properties in the Contract Area in respect of which Orders may be issued:
- Wolverhampton City Council buildings (excluding housing) within the area of the City of
Wolverhampton.
- 2 Description of the types of work for which Orders may be issued^{M1}:
- servicing and repair of air handling and conditioning units

2 Supplemental Provisions
(Sixth Recital and Schedule)

Supplemental Provisions
(Where neither entry against an item below is
deleted, the relevant paragraph applies.)

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 _____ _____

^{M1} Where the National Schedule of Rates is to apply (see items 11.1 and 11.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 11.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

Contractor's nominee

or such replacement as each Party may notify to the other from time to time

3 Contract Period^[1]
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be four years

commencing on 1st June 2015

4 Arbitration
(Article 7)

(If neither entry is deleted, Article 7 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9.3 to 9.8 apply.)^[2]

* Article 7 and clauses 9.3 to 9.8 (Arbitration) apply

5 Orders – minimum and maximum value
(Clause 2.4)

Minimum value of any one Order to be issued

£10.00 (words ten pounds)

Maximum value of any one Order to be issued

£98,000 (words N/A)

6 Orders – value of work to be carried out
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

* £98,000.00 (words ninety eight thousand pounds) per annum

7 Orders – priority coding^[3]
(Clause 2.6)

as stated in the tender documents

8 Construction Industry Scheme (CIS)
(Clause 4.2)

The Employer at the commencement of the Contract Period

^[1] The period is envisaged as normally being at least one year.
^[2] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].
^[3] To be completed if the Employer requires; as an example the code might be:
 • 'A': response time to be 4 hours;
 • 'B': to be commenced within 2 days;
 • 'C': to be commenced within 14 days;
 • 'D': to be commenced as agreed.

* is a 'contractor'
for the purposes of the CIS

9 Progress payments
(Clause 4.3.1)

Estimated value of an Order above which progress payments can be applied for
(If none is stated, it is £2,500.)

£N/A

10 Responsibility for measurement and valuation
(Clause 5.2)

(Unless one of the three options opposite is selected and, if relevant, an estimated value specified, the Contract Administrator shall measure and value all Orders.)

- * The Contract Administrator shall measure and value all Orders/
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of~~
£ _____
~~or more; the Contractor shall measure and value all other Orders/~~
- * ~~The Contractor shall measure and value all Orders~~

11 Schedule of Rates
(Clauses 5.3, 5.6.1 and 5.6.2)

1 The Schedule of Rates is

- * the Schedule of Rates is the schedule of rates in the priced tender (Identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by Not
Applicable

- * the addition/
- * the deduction
- *

of the Adjustment Percentage, which is per cent

2 Not applicable.

3 Rates – Fluctuations

Clause 5.6.1
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

- * applies

4 Basis and dates of revision

(Not applicable where the National Schedule of Rates applies)

The basis on which the Schedule of Rates is to be revised under clause 5.6.1.2
(If no basis is identified the rates remain fixed for all Orders.)

- * is as follows
The tendered prices will apply for the period up to 31 May 2016. With effect from 1 June 2016 and at subsequent annual intervals, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institution of Chartered Surveyors for the third quarter immediately prior to the

revision date and the third quarter previously published.

Where clause 5-6-1 applies, the dates as at which the Schedule of Rates is to be revised are
(If no other date(s) are specified here or in the document setting out the basis for revision, the date shall be 1 August in each year.)

The tendered prices will apply for the period up to 31 May 2016. With effect from 1 June 2016 and at subsequent annual intervals, the prices will be adjusted by the percentage difference between the BCIS Mechanical and Electrical Cost Indices published by the Royal Institution of Chartered Surveyors for the third quarter immediately prior to the revision date and the third quarter previously published.

12 Daywork
(Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the Invoice price of non-labour items are as follows:

Overheads and profit on Materials as stated in the tender documents per cent

Overheads and profit on Plant, Services and Consumable Stores as stated in the tender documents per cent

Overheads and profit on Sub-Contractors as stated in the tender documents per cent

2 Revision of Schedule of Hourly Charges

Clause 5-6-3 *** applies**
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

The annual revision date is as stated in the tender documents

The basis of revision of hourly charges, if *** is as follows/**
not set out in the Schedule of Hourly Charges¹¹ *** is set out in the following document**

13 Overtime work
(Clause 5-7)

Not applicable.

¹¹ If clause 5-6-3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5-6-5 will apply.



14

Insurance

(Clauses 6-4-1-2, 6-9, 6-11 and 6-14)

- 1 Insurance cover for any one occurrence or series of occurrences arising out of one event £10,000,000.00
- 2 Percentage to cover professional fees 20 per cent
- 3 Annual renewal date of Insurance as supplied by the Contractor to be supplied by the contractor
- 4 Terrorism Cover – details of the required cover
(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)

15

Break Provisions – Employer or Contractor
(Clause 7-1)The period of notice, if less than 13 weeks, is 9 months weeks

16

Settlement of Disputes
(Clauses 9-2, 9-3 and 9-4-1)**Adjudication^[10]**The Adjudicator is none are statedNominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[11]*(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)*

- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~constructionadjudicators.com^[12]~~
- * ~~Association of Independent Construction Adjudicators^[13]~~
- * ~~Chartered Institute of Arbitrators~~

Arbitration^[14]Appointor of Arbitrator (and of any replacement)^[15]*(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)*

- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
- * ~~The Royal Institution of Chartered Surveyors~~
- * ~~Chartered Institute of Arbitrators~~

^[10] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

^[12] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

^[14] Delete all but one of the nominating bodies asterisked.

^[13] Association of Independent Construction Adjudicators acts as an agent of and is controlled by the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

^[14] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9-3 to 9-8 (Arbitration) apply.

^[15] Delete all but one of the nominating bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.



Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company Secretary* or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company Secretary*, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company Secretary/Director*. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Executed as a Deed by the Employer

namely 1 Wolverhampton City Council

(B) ~~by affixing hereto the common seal of the company/other body corporate~~

in the presence of

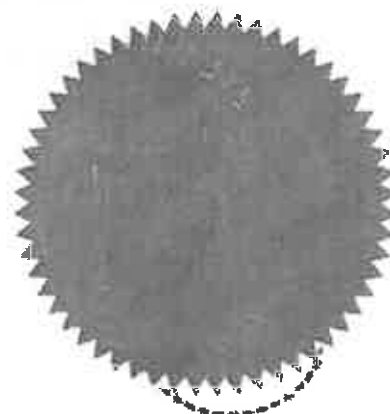
IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written

EXECUTED AS A DEED (but not delivered until the date thereof) by affixing the Common Seal of Wolverhampton City Council in the presence of:

1175/15

Signature _____

 Signature _____



[Common seal of company]

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Executed as a Deed by the Contractor

namely ' RMC Mechanical Services Ltd

(A) acting by a Director and the Company Secretary/two Directors of the company 2.3

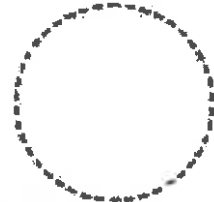
 and 
 (Print name of signatory) (Print name of signatory)
 
 Signature Director Signature Company Secretary/Director

(B) by affixing hereto the common seal of the company/other body corporate 2.4

in the presence of


 Signature Director

 Signature Company Secretary/Director




[Common seal of company]

(C) by attested signature of a single Director of the company 2.5


 Signature Director

in the presence of

Witness' signature  (Print name) 
 Witness' address 

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (Item 11-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Articles of Agreement to which these Conditions are annexed, consisting of the Recitals, the Articles and the Contract Particulars.
All Risks Insurance:	see clause 6-6.
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement.
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Co-ordinator:	the Contract Administrator or other person named in Article 4 or any successor appointed by the Employer.
CDM Regulations:	the Construction (Design and Management) Regulations 2007.
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the Construction Industry Scheme under the Finance Act 2004.
Construction Phase Plan:	the plan prepared by the Principal Contractor, where the project is notifiable under the CDM Regulations and in order to comply with regulation 23, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10-1.
Contract Area:	see the First Recital.
Contract Documents:	the Agreement, these Conditions <u>the completed Contract Particulars and the Schedule of Rates and all Sections of this Document.</u>
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (item 3).
Contractor:	the person named as Contractor in the Agreement.

Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement.
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6.
Insolvent:	see clause 8-1.
Interest Rate:	a rate 5% per annum above the official dealing rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd on behalf of the Construction Confederation and SCQS Ltd.) identified in the Contract Particulars (Item 11-2).
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11.
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
Principal Contractor:	the Contractor or other contractor named in Article 5 or any successor appointed by the Employer.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹⁹⁸
Recitals:	the recitals in the Agreement.
Schedule of Hourly Charges:	see clause 5-4-1.
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (Item 11), together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.
Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.

¹⁹⁸ Amend as necessary if different Public Holidays are applicable.

Specified Perils:	see clause 6-6.
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6.
Variation:	see clause 5-1.
VAT:	Value Added Tax.

Agreement etc. to be read as a whole

- 1-2 The Agreement and these Conditions are to be read as a whole but nothing contained in the Schedule of Rates or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3 In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom.

Reckoning periods of days

- 1-4 Where under this Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

1-7 This Contract shall be governed by and construed in accordance with the law of England.^[17]

^[17] Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.



Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan (where applicable) and other Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Where and to the extent that approval of the quality of materials or goods or of the standards of workmanship is a matter for the Contract Administrator's opinion, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods

or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 5) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 6), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 7), each Order shall state a commencement date⁽¹⁾ and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8 -1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
- 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10 -1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
- 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any

⁽¹⁾ Under the CDM Regulations 2007 every client is expressly required to allocate sufficient time prior to the commencement of construction to enable contractors and others to carry out necessary CDM planning and preparation.

instruction of the Contract Administrator that does not arise from the Contractor's default), the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 12 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with Instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with Instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Undertakings to comply

- 3-9 Each Party acknowledges that he is aware of and undertakes to the other that in relation to each Order and Site he will duly comply with the CDM Regulations. Without limitations, where the project⁽¹⁾ that comprises or includes work under an Order is notifiable:
 - 1 the Employer shall ensure that the CDM Co-ordinator carries out all his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out all his duties under those regulations;
 - 2 where the Contractor is and while he remains the Principal Contractor, he shall ensure that:
 - 1 the Construction Phase Plan is prepared and received by the Employer before construction work on that project is commenced, and that any subsequent amendment to it by the Contractor is notified to the Employer, the CDM Co-ordinator and (where not the CDM Co-ordinator) the Contract Administrator; and
 - 2 welfare facilities complying with Schedule 2 of the CDM Regulations are provided from the commencement of construction work until the end of the construction phase⁽²⁾;
 - 3 where the Contractor is not the Principal Contractor, he shall promptly notify the Principal Contractor of the identity of each sub-contractor that he appoints and each sub-contractor appointment notified to him;
 - 4 the Contractor shall promptly upon the written request of the CDM Co-ordinator provide, and shall ensure that any sub-contractor, through the Contractor, provides, to the CDM Co-ordinator (or, if the Contractor is not the Principal Contractor, to the Principal Contractor) such information as the CDM Co-ordinator reasonably requires for the preparation of the health and safety file.

Appointment of successors

- 3-10 -1 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.
- 2 If the Employer by a further appointment replaces the CDM Co-ordinator or the Principal Contractor, the Employer shall immediately upon such further appointment notify the

⁽¹⁾ The term 'project' for these purposes has the meaning given in regulation 2 of the CDM Regulations.

⁽²⁾ There is a duty on contractors to ensure compliance with Schedule 2 of the CDM Regulations so far as is reasonably practicable, whether or not the project is notifiable and whether or not the contractor is the Principal Contractor.

Contractor of the name and address of the new appointee. If the Employer appoints a successor to the Contractor as the Principal Contractor, the Contractor shall at no extra cost to the Employer comply with all reasonable requirements of the new Principal Contractor to the extent necessary for compliance with the CDM Regulations; no extension of time shall be given in respect of such compliance.



Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to any payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 8) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 9); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may at intervals of not less than one month from the commencement date make an application to the Contract Administrator for a progress payment of the amount he considers will become due at the due date for the work carried out or supplies made pursuant to the Order up to a date (specified in the application) that is not more than 7 days before the date of the application, taking into account any amounts previously certified in respect of the Order.
 - 2 The due date for a progress payment shall be 10 days after either the Contract Administrator's receipt of the Contractor's application or (if later) the end of the one month interval referred to in clause 4-3-1.
 - 3 The Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid in respect of any application under clause 4-3-3 made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 65 days from the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 If the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:
- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and

- the basis on which that sum has been calculated;
- 2 subject to clauses 4-5-3 and 4-5-4, the due date for payment in respect of the completed Order shall be 28 days after receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
 - 3 If the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
 - 4 If the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
 - 5 If clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 ·1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the sum to be paid by the Employer on or before the final date for payment shall be the sum stated as due in the relevant certificate.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4 but the Contractor has made or makes an application in respect of the relevant payment, the sum to be paid by the Employer, subject to any notice given under clause 4-6-5, shall be the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after expiry of the 5 day period referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 If the Employer intends to pay less than the sum stated as due from him in the certificate or application, as the case may be, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by the final date for its payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made. Interest under this clause 4-6-6 shall be a debt due to the Contractor from the Employer. Acceptance of a payment of interest under this clause 4-6-6 shall not in any circumstances be construed as a waiver of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.
- 7 A notice to be given by the Employer under clause 4-6-5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as

- 8 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4·7 ·1 Without affecting the Contractor's other rights and remedies, if the Employer fails to pay the Contractor the sum payable in accordance with clause 4·6 (together with any VAT properly chargeable in respect of such payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the ground or grounds on which it is intended to suspend performance, the Contractor may suspend performance of any or all of those obligations until payment is made in full.
- 2 Where the Contractor exercises his right of suspension under clause 4·7·1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of the right.
- 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of the costs and expenses as are reasonably necessary to enable his entitlement to be ascertained. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

- 5-1 The term 'Variation' means:
- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
 - 2 any other addition to, omission from or alteration of any Order; or
 - 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (Item 10).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars²⁴.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

²⁴ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6 -1 Unless it is stated in the Contract Particulars (item 11-3) that this clause 5-6-1 does not apply:
- 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (Item 11-4).
- 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1-2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
- 3 Unless it is stated in the Contract Particulars (item 12-2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
- 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
- 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7 -1 For the purposes of this clause 5-7:
- 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
- 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (Item 13).
- 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8 If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Liability of Contractor – personal injury or death

- 6-1** The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

Liability of Contractor – injury or damage to property

- 6-2** The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6-3 and excludes loss or damage to any property required to be insured under clause 6-7-1 caused by a Specified Peril.

Injury or damage to property – work and Site Materials excluded

- 6-3** The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:
- 1 the Order Completion Date; or
 - 2 the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4**
- 1 Without prejudice to his obligation to indemnify the Employer under clauses 6-1 and 6-2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6-1 and 6-2 which:
 - 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
 - 2 for all other claims to which clause 6-4-1 applies^[22], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 14-1) for any one occurrence or series of occurrences arising out of one event.^[22]
 - 2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6-4-1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.
 - 3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6-4-1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Excepted Risks

- 6-5** Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any

^[22] It should be noted that the cover granted under public liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to the excess in the policy and cover may not be available in respect of loss or damage due to gradual pollution.

^[23] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (Item 14).

Related definitions

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance²⁴⁹:

insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(a) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective²⁵⁰;

(b) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);
- (b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and

²⁴⁹ The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and in some cases it may not be possible for insurance to be taken out against certain of the risks required to be covered. In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract require discussion and agreement between the Parties and their insurance advisers prior to entering into the Contract. See the Measured Term Contract Guide.

²⁵⁰ In an All Risks Insurance policy, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition; for example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-9 or that definition. In relation to design defects, wider All Risks cover than that specified may be available to Contractors, though it is not standard.

(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

- Joint Names Policy:** a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
- Pool Re Cover:** such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.^[26]
- Specified Perils:** fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
- Terrorism Cover:** Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-15-1, to an existing structure and/or its contents) caused by or resulting from terrorism.^[26]

Insurance of existing structures^[27]

- 6-7 ·1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement^[28], repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- 1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period); or
 - 2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 2 The policy referred to in clause 6-7-1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.
- 3 In respect of the insurance referred to in clause 6-7-1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

Evidence of insurance

- 6-8 ·1 Except where the Employer is a Local Authority:
- 1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6-7-1 has been taken out and is being maintained; and
 - 2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may

^[26] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.

^[27] Some Employers (e.g. tenants) may not be able readily to obtain the Joint Names cover or the waiver mentioned in clause 6-7-2. In that event, the matter should be discussed between the Parties and appropriate amendments made prior to entering into this Contract.

^[28] As to reinstatement value, irrecoverable VAT and other costs, see the Measured Term Contract Guide.

be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6-8-1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor a copy of the cover certificate issued by the Insurer named in the policy referred to in clause 6-7, certifying that Terrorism Cover is being provided under that policy.

All Risks Insurance of work or supply comprised in Orders

- 6-9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6^[24] for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 14-2) to cover professional fees)^[24] up to and including the Order Completion Date for that Order and shall maintain such Joint Names Policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).

Insurance documents – failure by Contractor to insure

- 6-10 The Contractor shall send to the Contract Administrator for inspection by the Employer the Joint Names Policy referred to in clause 6-9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the Joint Names Policy as required by clause 6-9 (or fails to maintain a policy in accordance with clause 6-11), the Employer may himself take out and maintain a Joint Names Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Use of Contractor's annual policy – as alternative

- 6-11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-9; and
- 2 is a Joint Names Policy,

such policy shall satisfy the Contractor's obligations under clause 6-9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 14-3).

Notification of occupation and use

- 6-12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Loss or damage, insurance claims and Contractor's obligations

- 6-13 ·1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Joint Names Policy, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.
- 2 Subject to clauses 6-13-4 and 6-15-5-2, the occurrence of such loss or damage shall be

^[24] In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

disregarded in computing any amounts payable to the Contractor under this Contract.

- 3 After any inspection required by the Insurers in respect of a claim under the Joint Names Policy has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
- 4 The Contractor shall authorise the Insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6-13-5) under Contract Administrator's certificates.
- 5 The Employer may retain from the monies paid by the Insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by Insurers in respect of those fees.
- 6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy.

Terrorism Cover – policy extensions and premiums

- 6-14 -1 To the extent that the Joint Names Policy to be effected under clause 6-9 excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy, such Terrorism Cover as is specified in or by the Contract Particulars (Item 14-4), subject to clauses 6-14-4 and 6-15.
- 2 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 3 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6-15-5-1 and 6-15-5-2 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer's options

- 6-15 -1 If the Insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the Insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6-15-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-15-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of

those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4.6.

- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6.15.2.2 and there is no requirement for cover under clause 6.15.3:
- 1 if work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
 - 2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6.15.5.2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
 - 3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than 9 months ~~13 weeks~~ notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (item 15)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7.1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of Insolvency

8-1 For the purposes of these Conditions:

- 1 a Party which is a company becomes insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a Party which is a partnership becomes insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 a Party who is an individual becomes insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a Party also becomes insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a Party which is a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8-1.

Each of clauses 8-1-1 to 8-1-4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8-2 -1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
- 2 Such termination shall take effect on receipt of the relevant notice.
- 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8-3 -1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
- 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be

reinstated, either generally or in respect of any particular Order or Orders, if and on such terms as the Parties agree.

Default by Contractor

- 8-4**
- 1 If the Contractor:
 - 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,

the Contract Administrator may give to the Contractor a notice specifying the default (a 'specified default') or defaults.
 - 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5**
- 1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
 - 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 clause 8-9 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

Corruption

- 8-6**
- The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

Default by Employer

- 8-7**
- 1 If the Employer:
 - 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,

the Contractor may give to the Employer a notice specifying the default a 'specified

- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
- 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – valuation, certificate and payment

- 8-9 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-9-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 If the amount of direct loss and/or damage exceeds the value certified under clause 8-9-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-9-4 shall be 28 days from the date of the certificate.

Termination by Contractor – account and payment

- 8-10 -1 Where the Contractor's employment is terminated under clause 8-7 or 8-8, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[30]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (Item 16).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2011 edition of CIMAR.^[31]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 16).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After an arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[30] See the Measured Term Contract Guide.

^[31] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

- 1 apply to the courts to determine any question of law arising in the course of the reference;
and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration under this arbitration agreement.

Arbitration Act 1996

- 9-8 The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract wherever the same, or any part of it, shall be conducted.



Schedule Supplemental Provisions

(Sixth Rectal)

Each provision applies unless otherwise stated in the Contract Particulars.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
- 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive and/or the Health and Safety Commission;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999; and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
- 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this paragraph 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this paragraph 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations



- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.

Bond

The Contractor shall include for the provision of a Bond to provide for reimbursement of 10% of the Contract Amount (per annum) as Surety to secure the due performance of this Contract. This may be given by either an approved Banking or Insurance Company or by way of deposit with the Employer of an equivalent sum of money in which event such deposit will not be subject to the payment of interest to the Contractor. The Contractor shall include for the provision of a Bond by either method (as detailed above) and shall include the amount in his tendered rates.

Parent Company Guarantee

Under the Employers Approved List Policy, companies which are subsidiaries of a parent company may be required to provide a performance guarantee from that parent company and all subsidiary companies. Such companies are required to include for the provision of a performance guarantee in the tendered rates.

Director's Personal Guarantee

Under the Employers Approved List Policy, where a private limited company has been accepted on to the Employer's Standing List of Contractors subject to the condition that they provide a director's personal guarantee, then their personal guarantee may be required for any contracts undertaken. Such companies are required to include for the provision of this guarantee in the tendered rates.

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This contract has been amended from the original template.

**MTC 2011
Measured Term Contract 2011**

2011

MEASURED TERM CONTRACT



Measured Term Contract (MTC)

Appropriate for use:

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

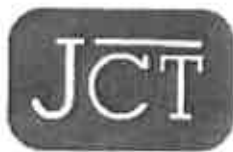
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