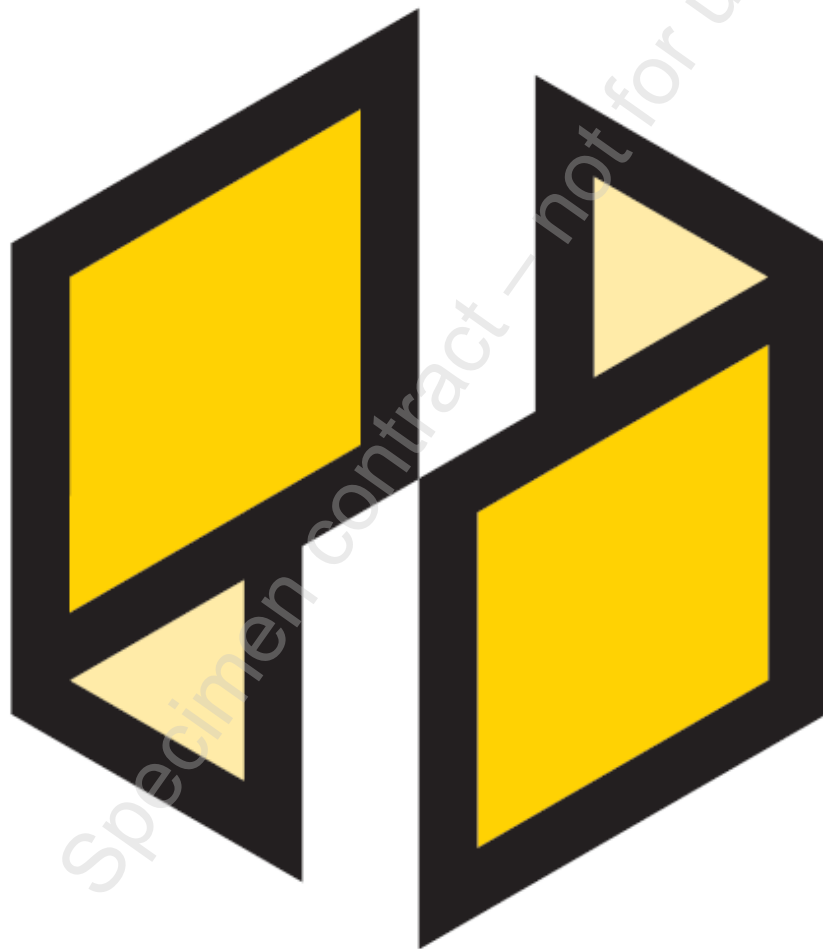


Concise

Building Contract 2014



53 High Road

Prepared by A. Architects

Containing:

- 1. Explanation of Terms**
- 2. Contract Details**
- 3. Contract Conditions**

Specimen contract – not for use

Agreement

This Agreement is between:

The Employer (refer to item B of the Contract Details for full information)

E.M. Ployer Ltd

AND

The Contractor (refer to item A of the Contract Details for full information)

Contractors Limited

Who agree as follows:

- The Contractor will carry out the work described in the Contract Details (the Works).
- The Employer shall pay the Contractor the Contract Price, which will be calculated in accordance with the Contract.
- The Contract is the RIBA Concise Building Contract 2014.

Signed as a:

simple contract (default)

deed

For and on behalf of the Employer by (complete either option A or option B):

Option A – Employer **is not** a registered company

Name:

Signature:

Employer's signature witnessed by:

Name:

Address:

Signature:

Option B – Employer **is** a registered company

First signatory (Director/Company Secretary):

Name:

Paul Jones

Signature:

Paul Jones

Second signatory (Director/Company Secretary):

Name:

Stirling Hart

Signature:

Stirling Hart

For and on behalf of the Contractor by (complete either option A or option B):

Option A – Contractor **is not** a registered company

Name:

Signature:

Contractor's signature witnessed by:

Name:

Address:

Signature:

Option B – Contractor **is** a registered company

First signatory (Director/Company Secretary):

Name:

Alex Moyes

Signature:

Alex Moyes

Second signatory (Director/Company Secretary):

Name:

Rogers Brew

Signature:

Rogers Brew

This Agreement is dated:

5th day of April 2015

1. Explanation of Terms

Explanation of Terms

Advanced Payment: An amount that the Employer pays the Contractor in advance of the first Payment Certificate. It is repaid in instalments as set out in clause A5.

Architect/Contract Administrator: The person or organisation that the Employer appoints to carry out the role.

Certificate of Practical Completion or Section Completion: A certificate that the Architect/ Contract Administrator issues to the Parties once Practical Completion of the Works or a Section of the Works is achieved (refer also to clause 9.15).

Change to Works Instruction: An instruction from the Architect/Contract Administrator, as described in clauses 5.12 and 5.13, that alters or modifies the design, quality and/or quantity of the Works.

Complete/Completion: See Practical Completion.

Contract: The Agreement, Contract Details, Contract Conditions and all documents listed as Contract Documents in item F of the Contract Details.

Contract Price: The amount that the Employer shall pay the Contractor for carrying out and completing the Works in accordance with the Contract.

Date for Completion: The date by which the Contractor is required to achieve Practical Completion of the Works or a Section of the Works.

Defects Fixing Period: The period specified in item K of the Contract Details that begins immediately after Practical Completion of the Works or a Section of the Works has been certified.

Due Date: The date, specified in item P of the Contract Details, when a payment becomes due (refer also to clause 7).

Final Date for Payment: The date by which a payment that is due should be paid.

Force Majeure: An event or circumstance as described in clause 9.5.

Item of Interest: Any item of antiquity or of historical, scientific or financial value that is found on the Site.

Liquidated Damages: A fixed sum or rate specified in item J or V of the Contract Details that represents a realistic estimate of the costs and losses the Employer expects to incur if the Contractor fails to complete the Works, or a Section of the Works, by the relevant Date for Completion.

Parties: The signatories to the Agreement: the Contractor and the Employer described in items A and B of the Contract Details.

Pay Less Notice: A notice that one Party may issue to the other, indicating an intention to pay less than the sum shown as due on a Payment Certificate or Payment Notice (refer also to clause 7.9).

Payment Certificate: A certificate that the Architect/Contract Administrator issues, showing the amount to be paid and the period in which the payment is due.

Payment Notice: A notice that the Contractor issues to the Employer showing the payment that the Contractor considers is due and how it was calculated (refer also to clauses 7.5 and 7.6).

Practical Completion: When the Works or a Section of the Works are certified generally complete in accordance with clause 9.

Programme: A plan of the activities that the Contractor intends to undertake to complete the Works, as described in item T (refer also to clause A1).

Required Specialist(s): The specialist(s) identified by the Employer to carry out the aspects of the Works specified in item Z of the Contract Details (refer also to clause A7).

Retention: A percentage of the amount included in a Payment Certificate that is deducted from a payment in accordance with clause 7.

Revision of Time: A revision to the Date for Completion of the Works or a Section of the Works that the Architect/Contract Administrator authorises in accordance with clause 9.

Risks Register: A document used for risk management, created by the Parties under clause A10.

Section: Part of the Works separately identified and described in item V of the Contract Details (refer also to clause A3).

Works: Work or services described in the Contract that the Contractor (and subcontractors) shall deliver, including all incidental work to ensure that the work or services are completed properly.

Specimen contract – not for use

2. Contract Details

Main Items

A. The Contractor (see clause 1)

Name	Contractors Ltd
Address	75 Broad Terrace E05 2NY
Registered address(if different)	
Telephone no	0208 300 500
Email address	vvcontractors@gmail.com
Trade association membership	Federation of Builders
VAT registration no	6459575

B. The Employer (see clause 2)

Name	E. M. Ployer Ltd
Address	25 Old Street
Telephone no	0208 100 222
Email address	imlimited@aol.co

C. The Site (see clause 2)

Address	53 High Road W60 4HM
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D. Architect/Contract Administrator (see clause 5)

Name	A Architects
Address	Review Call Studio 33 High Road
Telephone no	0202 323 4441
Email address	info@25marshal.com

E. Other Appointments by the Employer (see clause 2)

Appointment

Role	Name	Address	Telephone no.	Email address
Cost consultant	P.O. Blair Ltd.	48, Mansion Road, SW20 1YA	0201 223 1212	info@poblair.com

F. Contract Documents (see clause 5)

The Contract documents are

Description	Reference no.	Date	Priority (optional)
Concise description of the Works			
Drawings	D1/01 (attached on Schedule 1)	6/3/2015	1
Pricing Document	See attached schedule of rates	6/3/2015	3
Specification			
Contractor's Design Proposal	CD/001/1 Attached on schedule 2	6/3/2015	2

G. Progress Meetings (see clause 3)

Progress meetings will be held Monthly.

H. Working Period (see clause 1)

Start Date 06/05/2015
Date for Completion 05/05/2016
Working hour restrictions No work after 5pm Monday - Friday on site.

I. Facilities (see clause 1)

The Contractor may use the following facilities free of charge at the Site

Electricity.
Parking.
Telephone.
Washroom / Toilet.
Water.

J. Liquidated Damages (see clause 10)

Amount per day (£) See Item V

K. Defects Fixing Period (see clause 10)

Period 12 months.

L. Regulatory Consents, Fees and Charges (see clause 1)

Responsibility for obtaining and paying for all planning permissions, Building Regulations approvals and party wall consents shall be taken by The Employer.

M. Insurance – Contractor (see clause 6)

Insurance

Insurance type	Amount (£)	Duration
Contractor's all risks	5 million	contract period + 12 months

N. Insurance – Employer (see clause 6)

Insurance

Insurance type	Amount (£)	Duration
Buildings and contents	2 million	Contract period

O. Contract Price (see clause 7). Alternative 1 - Fixed Amount

Fixed amount (£)

O. Contract Price (see clause 7). Alternative 2 - Schedule of Rates

The Contract Price (excluding VAT) Amount calculated in accordance with the attached schedule of rates.

P. Due Date and Final Date for Payment – Interim Payments (see clause 7)

First Due Date for interim payments 06/06/2015.

Final Date for Payment of interim payments 14 days after the Due Date.

Q. Final Date for Payment – Final Payment (see clause 7)

The Final Date for Payment of the final payment will be 30 days after the Due Date.

R. Rate of Interest (see clause 8)

Interest rate (%) 8

S. Dispute Resolution (see clause 13)

Adjudication	Applies.
Name of Adjudicator	K Solomon
Mediation	Does not apply.
Name of Mediator	
Arbitration	Does not apply.
Name of Arbitrator	
Appointment of the Adjudicator/Mediator/Arbitrator(s)	
If no persons are named above, or the named persons are unable or refuse to act, the following body shall nominate the Adjudicator	Royal Institute of British Architects.

Optional Items

T. Programme (see clause A1)

Clause A1	Applies.
Programme Content	
No.	Description
1	The activities the Contractor will carry out to complete the Works, the start and finish dates of each activity and the relationship of each activity to the others, including lead and lag times.
2	The number of people and other resources for each activity.
Consequences of failing to provide a programme	Consequences will be financial.

U. Contractor Design (see clause A2)

Clause A2	Applies.	
Parts of the Works to be designed by the Contractor		
No.	Description	Contract Document(include location in document)
1	Kitchen	Drawing No. 564/101 - see attached schedule 1 and Contractor's Design Proposal
2	Bathrooms	Drawing No. 564/105 - see attached schedule 1 and Contractor's Design Proposal
3	Restaurant (sitting area)	Drawing No. 564/107 - see attached schedule 1 and Contractor's Design Proposal
Contractor's Design to be fit for purpose	Yes.	

V. Completion in Sections (see clause A3)

Clause A3

Details

Section no.	Description	Section start date (optional)	Date for Completion	Section Value (£)	Liquidated Damages per day (£)
1	Design and install a commercial kitchen in accordance with Contractor Design Proposal reference no.CD001/1		01/02/2016	87,500	87.50
2	Design and install a commercial toilet for visitors and a separate one for staff in accordance with contractor Design Proposal reference no.CD002/1		04/04/2016	37,500	37.50
3	Design and construct the restaurant sitting and bar area in accordance with contractor Design Proposal reference no. CD003/1		05/05/2016	125,000	125.00

**W1. Payment on Completion of the Works (see clause A4)
Alternative 1**

W1

Does not apply.

W2. Milestone Payment (see clause A4) Alternative 2

W2

Does not apply.

Schedule of Milestones

X. Advanced Payment (see clause A5)

Clause A5	Applies.
Amount	50,000,
Date for payment	05/05/2015

Schedule for Repayment of Advanced Payment

Instalment (£)	Date of repayment
20,000	20/06/2015
15,000	20/07/2015
15,000	20/08/2015

Advanced Payment Security	Applies.
Form	Bank guarantee from A&B national bank
Amount (£)	50,000,

Y. Evidence of Ability to Pay the Contract Price (see clause A6)

Clause A6	Applies.
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Z. Required Specialists (see clause A7)

Clause A7	Applies.
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The Employer specifies that the Contractor uses the following specialist(s) for the parts of the works stated

Details of Required Specialist	Part of the Works
Commercial Kitchen company 22 High Street Road SW10 7YA	The external panels of the kitchen. Design supply an installation of commercial oven and extractor.
Now Mirrors Ltd. Old Post office ND10 2CS	The panelling design in the seating area

AA. Collateral Warranty/Third Party Rights Agreement (see clause A8)

Clause A8	Does not apply.
Collateral Warranty — Contractor	
Name, class or description of person in whose favour the collateral warranty is required	
Form of warranty	
Third Party Rights Agreement	
Name, class or description of beneficiaries	
Form of Agreement	

BB. Public Sector Clauses (see clause A9)

Clause A9	Does not apply.
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CC. Risks Register (see clause A10)

Clause A10	Applies.
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DD. Rules for Valuation of Revision of Time and Additional Payment (see clause A11)

Clause A11	Applies.
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Specimen contract — not for use

3. Contract Conditions

MAIN CLAUSES

1. Contractor

Obligation:

- 1.1 The Contractor shall:
 - 1.1.1 Start the Works on the Start Date.
 - 1.1.2 Carry out the Works regularly, diligently and in a good and workmanlike manner to ensure that they are completed properly in accordance with the Contract and all statutory requirements by the Date for Completion.
 - 1.1.3 Be responsible for all statutory fees, notices and charges not covered in item L of the Contract Details.

Carrying out the Works:

- 1.2 The Contractor shall use methods and products that minimise nuisance and pollution and are safe and fit for the purposes intended.
- 1.3 The Contractor shall ensure a suitably qualified representative is on Site during the Works to answer queries and receive instructions on its behalf.
- 1.4 The Contractor shall liaise with the Employer to maintain security at the Site.
- 1.5 The Contractor may use, free of charge, the Employer's facilities listed in item I of the Contract Details and shall be responsible for any loss or damage arising from such use.

Sub-contracting:

- 1.6 The Contractor shall inform the Architect/Contract Administrator of any parts of the Works that it has subcontracted.
- 1.7 The Contractor is solely responsible for carrying out the Works and for the performance of all subcontractors and suppliers.

2. Employer

- 2.1 The Employer shall allow the Contractor reasonable access to the Site for the following purposes:
 - 2.1.1 Pre-construction inspection.
 - 2.1.2 Carrying out the Works.
 - 2.1.3 Fulfilling its obligations during the Defects Fixing Period.
- 2.2 The Employer has appointed the Architect/Contract Administrator and may replace them by informing the Contractor of the replacement and the date the replacement takes effect.
- 2.3 The Employer may make other appointments under item E to satisfy regulatory requirements or for other purposes and may inform the Contractor of such appointments and any replacements.
- 2.4 The Employer may defer access to the Site or sections of the Site. The Contractor shall be entitled to a Revision of Time and any costs that result from this.

3. Collaborative Working

Pre-Start Meeting:

- 3.1 At least 10 days before the Start Date, the Parties and the Architect/Contract Administrator shall meet and:
 - 3.1.1 Set out expectations for each Party.
 - 3.1.2 Set out communication procedures, including any specific rules on electronic communications.
 - 3.1.3 Identify risks and set out the risk mitigation procedure.
 - 3.1.4 Set out any administrative procedures.

Advance Warning and Joint Resolution of Delay:

- 3.2 If an event affects (or will affect) progress of the Works and/or the Contract Price, the Parties shall:
 - 3.2.1 Provide each other and the Architect/Contract Administrator with an advance warning notice of the event as soon as they become aware of it.
 - 3.2.2 Work together to resolve the event. If necessary the Architect/Contract Administrator shall hold a meeting with the Parties and other related stakeholders to resolve the event.
- 3.3:
 - 3.3.1 If an event as described in clause 3.2 occurs, the Contractor shall take reasonable steps to minimise its effects.
 - 3.3.2 If the Contractor fails to comply with clause 3.2.1 (except where the event results from the Architect/Contract Administrator's instructions) or clause 3.3.1, the Architect/Contract Administrator shall take this into consideration when determining an application for a Revision of Time and/or additional payment arising from the event.

Improvements and Cost Savings:

- 3.4 The Contractor may propose changes to the Works that will improve quality and/or reduce the Contract Price. In such circumstances the Employer may:
 - 3.4.1 Seek the Architect/Contract Administrator's advice on the proposed changes.
 - 3.4.2 Accept the proposed changes and have the Architect/Contract Administrator issue the necessary instructions to implement them.
- 3.5 Any cost savings resulting from the changes shall be divided equally between the Parties.

Progress Meetings:

- 3.6 Progress meetings shall be held as stated in item G of the Contract Details. Meetings shall be attended by the Architect/Contract Administrator, the Contractor and any other person invited by the Architect/Contract Administrator. The meetings shall cover all operational issues relating to the Works.

4. Assignment and Health and Safety

- 4.1 Neither Party shall assign its burdens, rights or benefits under the Contract without informing the other.
- 4.2 The Contractor shall obtain written consent from the Employer before it assigns any of its burdens, rights or benefits.
- 4.3 The Parties shall comply with all health and safety regulations, including making any appointments or submissions required under such regulations.

5. Architect/ Contract Administrator

- 5.1 The Architect/Contract Administrator shall administer the Contract, issuing instructions and certificates and taking decisions.
- 5.2 The Architect/Contract Administrator shall:
 - 5.2.1 Give the Contractor two free copies of the Contract Documents.
 - 5.2.2 Issue any updates promptly.

-
- 5.3** The Architect/Contract Administrator may:
- 5.3.1** Visit the Site, including off-site locations in connection with the Works.
- 5.3.2** Inspect the Works.
- 5.3.3** Reject defective work.

Instructions:

- 5.4** The Architect/Contract Administrator may issue the following instructions:
- 5.4.1** Change to Works Instructions.
- 5.4.2** Instructions for dealing with Items of Interest found on the Site.
- 5.4.3** Instructions on tests and inspections of products or any work, including instructions rejecting defective work and/or products.
- 5.4.4** Instructions on postponing the Works or Sections of the Works.
- 5.4.5** Instructions to remove any person from the Works who is not doing his or her job properly or who constitutes a hazard.
- 5.4.6** Instructions to resolve any inconsistency in the Contract Documents or in a previous instruction.
- 5.4.7** Instructions requiring further documents.
- 5.4.8** Instructions on any clause of the Contract to enable good administration.
- 5.5** All instructions from the Architect/Contract Administrator shall be in writing. The Contractor shall comply with instructions immediately.
- 5.6:**
- 5.6.1** If the Architect/Contract Administrator gives an oral instruction due to urgent circumstances, it shall confirm the instruction in writing to the Contractor promptly.
- 5.6.2** If the Architect/Contract Administrator does not confirm the instruction in writing promptly, the Contractor shall issue a written record of the oral instruction to the Architect/Contract Administrator.
- 5.6.3** Except where clause 5.6.4 applies, a written record under clause 5.6.2 shall be the record of the Architect/Contract Administrator's instruction unless the Architect/Contract Administrator amends it in writing within 5 days of receiving it.
- 5.6.4** The Architect/Contract Administrator may give an instruction that oral instructions do not take effect until confirmed in writing by the Architect/Contract Administrator.
- 5.7** The Architect/Contract Administrator may instruct that work be uncovered and inspected/tested.
- 5.7.1** If work that is not in accordance with the Contract is found, the Contractor shall bear the costs of the instruction and of correcting the defects.
- 5.7.2** If all work is in accordance with the Contract, the costs resulting from the instruction shall be added to the Contract Price.
- 5.8** The Architect/Contract Administrator may accept work not in accordance with the Contract and adjust the Contract Price accordingly.
- 5.9** Within 7 days of receiving an instruction, the Contractor may notify the Architect/Contract Administrator that it believes that any of the following apply:
- 5.9.1** The instruction is not in accordance with the Contract.
- 5.9.2** Implementing the instruction would have adverse health and safety implications.
- 5.9.3** The instruction adversely affects any part of the Works designed by the Contractor (if applicable).
- 5.10** On receiving a notification under clause 5.9, the Architect/Contract Administrator may modify, amend, withdraw or confirm the instruction. The Contractor shall comply accordingly.

-
- 5.11** If the Contractor fails to comply with an Architect/Contract Administrator's instruction, the Architect/Contract Administrator may issue the Contractor with a 7-day notice to comply. If the Contractor fails to comply within the 7-day period then the Architect/Contract Administrator may advise the Employer to employ and pay other contractors to carry out the instructions and:
- 5.11.1** The Employer shall have the right to employ other contractors to carry out the instruction.
- 5.11.2** The Contractor shall cooperate with the new contractors.
- 5.11.3** The new contractors shall have access to the Site.
- 5.11.4** The Contractor shall be responsible for all costs and expenses incurred by the Employer.

Change to Works Instructions:

- 5.12** Within 10 days of receiving a Change to Works Instruction, the Contractor shall calculate the effect (if any) of the instruction on the Contract Price and/or the Date for Completion, and submit details to the Architect/Contract Administrator. After this period the right to a Revision of Time and additional payment will be lost.
- 5.13:**
- 5.13.1** If the Contractor submits a calculation in accordance with clause 5.12, the Architect/Contract Administrator and the Contractor shall aim to agree any Revision of Time and/or additional payment promptly.
- 5.13.2** If the Architect/Contract Administrator and the Contractor are unable to agree or the Contractor failed to submit the calculation within the time specified in clause 5.12, the Architect/Contract Administrator shall determine the appropriate adjustment to the time and/or Contract Price, based on the Contractor's Programme (if applicable) and any figures included in the Contract Documents or, if none are applicable, current reasonable rates and prices.

Inconsistency in the Contract Documents:

- 5.14** If the Contractor finds any inconsistency in the Contract Documents and/or an instruction, or thinks that a Contract Document or instruction is inconsistent with the law, it shall inform the Architect/Contract Administrator immediately. The Architect/Contract Administrator shall issue instructions to resolve the issue.
- 5.15** If the Contractor must comply with a law whilst waiting for the Architect/Contract Administrator's instructions under clause 5.14, the Contractor shall take the minimum level of action required to comply with the law until the instructions are received.

6. Liability and Insurance

Contractor's Liability:

- 6.1 The Contractor's liability includes:
 - 6.1.1 Loss of or damage to the Works
 - 6.1.2 Loss of or damage to products and equipment
 - 6.1.3 Death of or bodily harm to any person working for the Contractor arising in connection with the Works during the course of their employment
 - 6.1.4 Loss of or damage to property due to the negligence of the Contractor in carrying out the Works
 - 6.1.5 Death of or bodily harm to a third party caused by the Works.

Employer's Liability:

- 6.2 The Employer's liability includes:
 - 6.2.1 Damage to existing structures and fixtures
 - 6.2.2 Damage to neighbouring property caused by the nature of the Works and not due to the negligence of the Contractor in carrying out the Works.

Insurance:

6.3:

- 6.3.1 Without limiting their liabilities under clauses 6.1 and 6.2, the Parties shall maintain insurance policies in respect of their liabilities at the values set out in items M and N of the Contract Details.
- 6.3.2 The Contractor shall take out its insurance policies in the joint names of the Parties.
- 6.4 Not later than 10 days before the Start Date, and after that on request, the Contractor shall provide the Architect/Contract Administrator with evidence of up-to-date and adequate insurance. If evidence is not provided, the Employer shall take out relevant insurance policies and deduct the cost of the premiums from payments due to the Contractor.
- 6.5 Any payment made under any insurance policy for a claim related to the Works shall be given to the Employer to be used for the Works.

7. Contract Price and Payment

Interim Payments:

- 7.1 The first Due Date for interim payment shall be as stated in the Contract Details. Subsequent Due Dates shall be on the same day of each following month. After the Certificate of Practical Completion is issued, the Due Date shall be on the same day at 2-month intervals.
- 7.2 No later than 10 days before each Due Date for interim payment, the Contractor may issue the Architect/Contract Administrator with an application for payment showing the amount that it considers due and how it was calculated.
- 7.3 No later than 5 days after the Due Date for interim payment, the Architect/Contract Administrator shall issue the Parties with a Payment Certificate showing the amount due and the basis on which it was calculated (even if the amount is zero or negative). The Payment Certificate shall state the total value of work carried out in accordance with the Contract up to the Due Date, plus any additional payments due, minus:
 - 7.3.1 The total payment already certified
 - 7.3.2 Any applicable Retention
 - 7.3.3 Any applicable Advanced Payment repayment sum
 - 7.3.4 Any other payments notified to the Architect/Contract Administrator by the Employer
 - 7.3.5 Any deductions required in accordance with the Contract.

-
- 7.4** The Retention percentage shall be 5%. This shall be reduced to 2.5% after Practical Completion is certified and all Retention shall be released in the final Payment Certificate.
- 7.5** If the Architect/Contract Administrator does not issue a Payment Certificate as required under clause 7.3 and the Contractor has made an application for interim payment under clause 7.2, then the Contractor's application shall become a Payment Notice. The amount shown as due on the Payment Notice shall be the amount due for interim payment on the Final Date for Payment.
- 7.6:**
- 7.6.1** If the Contractor has not made an application for payment under clause 7.2, it may issue a Payment Notice showing the amount it considers is due and how it was calculated.
- 7.6.2** This Payment Notice will become the amount to be paid on the Final Date for Payment of interim payments.
- 7.6.3** The Final Date for Payment of interim payments shall be extended by the same number of days that it took the Contractor to issue the Payment Notice after the 5-day period in clause 7.3 expired.
- 7.7** Subject to clause 7.9, the Employer shall pay the amount stated in the Payment Certificate or Payment Notice on the Final Date for Payment of interim payments.
- 7.8:**
- 7.8.1** The Contractor shall issue the Employer with a valid VAT invoice for every Payment Certificate or Payment Notice on the Final Date for Payment of interim payments.
- 7.8.2** The Employer shall pay the invoice promptly.
- Pay Less Notice:**
- 7.9:**
- 7.9.1** If the Employer or the Contractor thinks that the amount due for payment on the Final Date for Payment is less than the amount stated on a Payment Certificate or Payment Notice, it shall issue a Pay Less Notice no later than 5 days before the Final Date for Payment.
- 7.9.2** The Pay Less Notice shall state the amount considered due and how it was calculated.
- 7.9.3** The amount to be paid on the Final Date for Payment shall be the amount stated on the Pay Less Notice.
- 7.10** The Employer has the right to issue a Pay Less Notice, or to authorise another person to issue a Pay Less Notice on its behalf (in which case the Employer shall inform the Contractor accordingly).
- Final Contract Price:**
- 7.11:**
- 7.11.1** No later than 90 days after the end of the Defects Fixing Period, the Contractor shall submit its calculation of the final Contract Price, along with relevant supporting documentation, to the Architect/Contract Administrator.
- 7.11.2** The Contractor and the Architect/Contract Administrator shall aim to agree the final Contract Price within 90 days of the Contractor's submission.
- 7.11.3** If the Architect/Contract Administrator and the Contractor are unable to agree the amount or the Contractor did not make its submission in time, the Architect/Contract Administrator shall prepare and issue a final Payment Certificate showing the final Contract Price, including details of how it was calculated, no later than 90 days after the Contractor's submission period specified in 7.11.1.
- 7.12:**
- 7.12.1** The Due Date for final payment shall be the day on which the final Contract Price is agreed under clause 7.11.2 or issued under clause 7.11.3.
- 7.12.2** If neither of these events occur, the Due Date for final payment shall be the last day of the 90-day period stated in clause 7.11.3.
- Final Payment:**
- 7.13.1** No later than 5 days after the Due Date for final payment, the Architect/Contract Administrator shall issue a final Payment Certificate showing the amount due and how it was calculated.
- 7.13.2** If the Architect/Contract Administrator fails to comply with clause 7.13.1, the Contractor may issue a final Payment Notice, showing the amount it considers due and how it was calculated.

-
- 7.14** The Final Date for Payment of the final Payment Certificate shall be as stated in item Q or, if clause 7.13.2 applies, the Final Date for Payment shall be extended by the number of days after the expiration of the 5-day period in clause 7.13.1 that it took the Contractor to issue the final Payment Notice.
- 7.15** The final Payment Certificate or the final Payment Notice shall be paid by the party indicated on it as owing on the Final Date for Payment unless that party issues a Pay Less Notice in accordance with clause 7.9.

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8. Contractor's right to suspend

8.1

8.1.1 If the Employer fails to pay an amount that is due in accordance with the Contract, the Contractor may issue the Employer with a 7-day notice of its intention to suspend some or all of its obligations under the Contract.

8.1.2 The notice shall state the amount owed and the date that the suspension will take effect.

8.1.3 If the Employer fails to make payment within the 7-day period, the Contractor may suspend some or all of its obligations.

8.2 The Contractor shall be entitled to simple interest on any unpaid amount at the rate of interest stated in item R of the Contract Details, calculated from the Final Date for Payment until payment is made in full.

8.3 If the Contractor suspends some or all of its obligations following the procedure in clause 8.1 then it shall be entitled to a Revision of Time, reasonable expenses and costs resulting from the suspension.

9. Risks, Force Majeure, Revision of Time, Additional Payment and Completion

Employer's Risks:

9.1 The Employer's risks are:

9.1.1 Claims, proceedings and losses caused by the Employer or its employees/agents or arising from the Employer or its employees/agents using or occupying the Works.

9.1.2 An error in the design of the Works prepared by the Employer.

9.1.3 Damage caused by: fire; lightning; explosion; storm; flood; escape of water from any water tank, apparatus or pipe; earthquake; aircraft and other aerial objects.

9.2 An Employer's risk may entitle the Contractor to an application for a Revision of Time.

Contractor's Risks:

9.3 The Contractor's risks are all construction-related risks that are not the Employer's risks or Force Majeure.

9.4 A Contractor's risk shall be the liability of the Contractor and does not give rise to any entitlements.

Force Majeure:

9.5 Force Majeure is an exceptional event or circumstance which:

9.5.1 Is beyond the control of the Parties.

9.5.2 Is not caused by or the responsibility of either Party.

9.5.3 Neither Party could have reasonably provided for when entering the Contract.

9.5.4 Having occurred, neither Party can avoid.

9.6 Force Majeure includes:

9.6.1 War, hostilities (whether war is declared or not), invasion and acts of foreign enemies.

9.6.2 Rebellion, terrorism, revolution, insurrection, military or usurped power, civil war.

9.6.3 Riot, commotion, disorder, strike or lockout by people other than the Contractor's personnel and other employees.

9.6.4 Use of munitions of war, explosive materials, ionising radiation and contamination by radioactivity, except as may be attributed to the Contractor's use of such munitions, explosives or radiation.

9.7 If Force Majeure occurs, the Parties shall inform the Architect/Contract Administrator and each other promptly. If necessary, the Architect/Contract Administrator shall instruct the Contractor to stop work.

9.8 Force Majeure may entitle the Contractor to an application for a Revision of Time.

Revision of Time:

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- 9.9** The Contractor may apply (with supporting documentation) for a Revision of Time if the Works are delayed by any of the following:
- 9.9.1** The Architect/Contract Administrator issues a Change to Works Instruction.
- 9.9.2** The Employer defers access to the Site.
- 9.9.3** The Employer or its agents cause delay or disruption.
- 9.9.4** The Architect/Contract Administrator postpones the Works or part of the Works.
- 9.9.5** The Architect/Contract Administrator issues an instruction for any work or products to be inspected and/or opened up and no defective work or products are found.
- 9.9.6** The Architect/Contract Administrator issues an instruction resolving an inconsistency, unless the inconsistency is due to a document prepared by the Contractor.
- 9.9.7** The Architect/Contract Administrator issues instructions with regard to an Item of Interest.
- 9.9.8** The Contractor suspends some or all of its duties.
- 9.9.9** The action or omission of a utility company or statutory body.
- 9.9.10** The weather conditions are exceptionally adverse.
- 9.9.11** The Employer's risks and/or Force Majeure.
- 9.10:**
- 9.10.1** If the event is a single event, the Contractor shall apply for the Revision of Time within 10 days of the event ending.
- 9.10.2** If the event is a continuing event, the Contractor shall inform the Architect/Contract Administrator of the event within 10 days of it commencing, and shall apply for a Revision of Time (with supporting documentation) within 10 days of the last element of the event.
- 9.10.3** If the Contractor fails to apply within these periods, it will lose the right to a Revision of Time.
- 9.11:**
- 9.11.1** The Architect/Contract Administrator and the Contractor shall aim to agree on the Revision of Time promptly.
- 9.11.2** If the Architect/Contract Administrator and the Contractor are unable to agree or the Contractor did not apply in time, the Architect/Contract Administrator shall make a reasonable decision about the appropriate Revision of Time taking into consideration the Programme (if applicable) and any advance warning notices.
- 9.12** If a Revision of Time is granted, the Architect/Contract Administrator shall amend the Date for Completion and inform the Parties.
- Additional payment:**
- 9.13** If an event attributable to the Employer or its agents adds costs and expenses to the Works, the Contractor may apply for an adjustment to the Contract Price.
- 9.13.1** If the event is a single event, the Contractor shall apply for the additional payment within 10 days of the event ending.
- 9.13.2** If the event is a continuing event, the Contractor shall inform the Architect/Contract Administrator of the event within 10 days of it commencing and shall apply for the additional payment (with supporting documentation) within 10 days of the last element of the event.
- 9.13.3** If the Contractor fails to adhere to these time periods, the right to the additional payment will be lost.
- 9.14** The Architect/Contract Administrator and the Contractor shall aim to agree the additional payment promptly. If the Architect/Contract Administrator and the Contractor are unable to agree or the Contractor did not apply in time, the Architect/Contract Administrator shall make a reasonable decision. If necessary, the Architect/Contract Administrator shall amend the Contract Price and inform the Parties.
- Practical Completion:**
- 9.15** For Practical Completion to occur the following must apply:
- 9.15.1** No aspect of the Works or a Section of the Works shall be outstanding.
- 9.15.2** The Works shall be uncluttered and safe.
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- 9.15.3** Any requirements stated in the Contract Documents or required by law for Practical Completion shall have been satisfied.
- 9.16** When the Contractor thinks that Practical Completion of the Works or a Section of the Works has been achieved, it shall notify the Architect/Contract Administrator.
- 9.16.1** If the Architect/Contract Administrator agrees that Practical Completion has been achieved, it shall issue the Contractor with a Certificate of Practical Completion for the Works or a Section of the Works.
- 9.16.2** If the Architect/Contract Administrator does not agree that Practical Completion has been achieved it shall inform the Contractor.

Early Use and Partial Possession:

- 9.17** The Employer may request to use part(s) of the Works or part(s) of a Section of the Works for storage or other purposes. If the request does not interfere with carrying out the Works, the Contractor shall grant the request. The Employer shall then be responsible for the insurance implications of such use.
- 9.18:**
- 9.18.1** The Employer may request to take over any part(s) of the Works or part(s) of a Section of the Works before the Architect/Contract Administrator certifies Practical Completion. If doing so does not interfere with the rest of the Works, the Contractor shall grant the request. The Architect/Contract Administrator shall then issue the Parties with a notice clearly identifying the area(s) to be taken over and the date of takeover.
- 9.18.2** The part(s) of the Works/Section(s) identified in the Architect/Contract Administrator's notice shall be viewed as having achieved Practical Completion. The Defects Fixing Period for the relevant part(s) shall start from the date of takeover.

Specimen contract – not for use

10. Liquidated Damages and Defects Fixing Period

Liquidated Damages:

- 10.1** If the Contractor fails to achieve Practical Completion of the Works or a Section of the Works on the relevant Date for Completion, the Employer may, on the advice of the Architect/Contract Administrator, deduct Liquidated Damages at the rate stated in item J of the Contract Details.

Defects Fixing Period:

- 10.2** The Defects Fixing Period shall start after the Architect/Contract Administrator has issued to the Parties a Certificate of Practical Completion for the Works or a Section of the Works, and shall last for the period stated in item K of the Contract Details.
- 10.3:**
- 10.3.1** The Contractor shall remedy all defects identified during the Defects Fixing Period.
- 10.3.2** When the Architect/Contract Administrator is satisfied that all defects are fixed, it shall notify the Parties accordingly.
- 10.3.3** If the Contractor fails to fix any defects identified during the Defects Fixing Period then the Architect/Contract Administrator shall issue the Contractor with a notice to fix the defects.
- 10.3.4** If the Contractor fails to comply with the notice in clause 10.3.3 promptly, the Employer may employ others to fix the defect and any resulting costs or expenses shall be the responsibility of the Contractor.

Specimen contract – not for use

11. Priority of Contract Documents, Governing Law, Rights of Third Parties, Severability and Notices

Priority of Contract Documents:

- 11.1** All parts of the Contract, including the Contract Documents, shall be read together as a whole; however in all circumstances the Agreement, Contract Details and these Contract Conditions shall take precedence over all other Contract Documents.
- 11.2** If the Parties have set out an order of priority for the Contract Documents in item F, that priority shall apply subject to clause 11.1.

Governing Law, Rights of Third Parties and Severability:

- 11.3** The Contract is governed by the law of England and Wales.
- 11.4** The Contract does not limit other legal remedies available to the Parties
- 11.5** The Contract is not a contract between the Contractor and the Architect/Contract Administrator.
- 11.6** Third parties have no rights under the Contract unless specifically stated in the Contract.
- 11.7** If any court finds that some of the clauses in the Contract are unenforceable, the other clauses shall remain in force.
- 11.8** A reference to legislation or regulations includes any amendment, update or replacement of that legislation and also includes similar legislation or regulations in other parts of the UK.
- 11.9** The Contract is the entire agreement between the Parties. Any change to the Contract that the Parties agree shall be written down and signed by both Parties.

Communications and Notices:

- 11.10** Subject to clause 11.12, all communication, notification and notices under the Contract shall be in writing and, unless specifically stated in the Contract, shall be issued to the Parties with a copy to the Architect/Contract Administrator.
- 11.11:**
- 11.11.1** The Parties shall set out communication (including electronic communication) procedures for the Contract at the pre-start meeting under clause 3.1 and the Architect/Contract Administrator shall confirm these in writing.
- 11.11.2** If the Parties fail to carry out their obligations under clause 11.11.1 then the Architect/Contract Administrator shall issue instructions on the required communication procedures.
- 11.12** All notices relating to suspension and/or termination of the Contract shall only be effective from the date of delivery. Such notices are to be sent to the Parties by recorded delivery to the addresses stated in items A and B of the Contract Details (or, if these addresses have been amended by notice, to the addresses stated in the relevant notices).

Calculation of Periods:

- 11.13** In calculating a period under the Contract, a day shall be a calendar day and a date shall be a calendar date. When a period is calculated, it shall exclude public holidays.

12. Termination.

Termination by the Employer:

- 12.1** If the Contractor:
- 12.1.1** Abandons the Works
- 12.1.2** Fails to proceed regularly and diligently
- 12.1.3** Consistently fails to comply with instructions
- 12.1.4** Is in material breach of the Contract, then the Architect/Contract Administrator may issue the Contractor with a notice of intention to terminate, referring to this clause and stating the reason.

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- 12.2** If the Contractor fails to remedy the default within 14 days of receiving the notice of intention to terminate, the Employer may end the Contractor's employment under the Contract by issuing the Contractor with a notice of termination.

Termination by the Contractor:

- 12.3** If the Employer fails to pay the Contractor when payment is due or is in material breach of the Contract then the Contractor may issue the Employer with a 14-day notice of intention to terminate, referring to this clause and stating the default.
- 12.4** If the Employer has not remedied the default within 14 days of receiving the notice, the Contractor may terminate its employment under the Contract by issuing the Employer with a notice of termination.

Termination due to Insolvency:

- 12.5** If a Party is declared insolvent or bankrupt under any applicable law, the other Party may terminate the Contractor's employment immediately by issuing the insolvent Party with a notice of termination.

Termination by Either Party:

- 12.6** Either Party may terminate the Contractor's employment under the Contract if any event not caused by (and not the responsibility of) the Parties has prevented the Contractor carrying out the Works for a continuous period of 60 days.

Payment on Termination:

- 12.7** If the Contractor's employment is terminated, the Contractor shall be entitled to the unpaid balance of the value of the work properly done, adjusted as follows:
- 12.7.1** If the Employer has terminated the Contractor's employment other than for a reason under clause 12.6, the Employer shall be entitled to payment for the cost and expense incurred in employing another contractor to complete the Works and to any other reasonable costs and expenses incurred due to the termination.
- 12.7.2** If the Contractor has terminated the Contractor's employment other than for a reason under clause 12.6, it shall be entitled to payment for the costs and losses it incurred because of the termination and all payments due under the Contract.
- 12.8** Subject to clause 12.9.3, the balance shall be due for payment within 30 days of either the Contractor making an application for payment or the Architect/Contract Administrator certifying the final payment due (whichever occurs first). The Parties shall be entitled to apply the rights under clause 7.9 (Pay Less Notice).
- 12.9:**
- 12.9.1** If the Employer terminates the Contractor's employment under the Contract, no further payment shall become due to the Contractor.
- 12.9.2** Any amounts already due shall not be paid if the Employer has issued a Pay Less Notice or if the Contractor has become insolvent after the payment Due Date but before the Final Date for Payment.
- 12.9.3** Payment shall only become due after the Works are completed or, if the Works have been discontinued, 180 days after termination.

Access to Site and Security on Termination:

- 12.10** If the Contractor's employment under the Contract is terminated for any reason, the Contractor shall:
- 12.10.1** Lose its right to access the Site
- 12.10.2** Remove all its materials and equipment within a reasonable time
- 12.10.3** No longer be responsible for the security of the Site.

13. Dispute Resolution.

- 13.1** If the Parties disagree on any issue arising from or connected with the Contract, they shall meet and negotiate to resolve the disagreement. If the Parties are unable to agree, the dispute resolution options selected in item S of the Contract Details shall apply.
- 13.2** The Parties have the right to refer all disputes arising from or connected with the Contract to the Adjudicator identified in item S for an interim and binding decision.
- 13.3** If mediation is selected then, without limiting their right under clause 13.2, the Parties may also refer all disputes arising from or connected with the Contract to the Mediator identified in item S.
- 13.4** If arbitration is selected then, without limiting their rights under clauses 13.2 and 13.3, all disputes arising from or connected with the Contract may be referred to the Arbitrator(s) identified in item S for final and binding resolution.
- 13.5** If arbitration has not been selected then disputes arising from or connected to the Contract shall be referred to the appropriate court for a final and binding decision.

OPTIONAL CLAUSES

A1. Programme

- A1.1** If item T is selected in the Contract Details then, at least 21 days before the Start Date, the Contractor shall submit a Programme to the Architect/Contract Administrator as described in that item.
- A1.2** No later than 5 days before each progress meeting, the Contractor shall issue the Architect/Contract Administrator with an updated version of the Programme, incorporating all changes and progress with the Works.
- A1.3** If further changes are agreed to the Programme at the progress meeting, the Contractor shall update and reissue the Programme promptly.
- A1.4** If financial consequences have been selected for failure to submit a Programme, the Employer, on the advice of the Architect/Contract Administrator, may withhold 10% of the amount shown as due on the first Payment Certificate until the Contractor submits a Programme. On the advice of the Architect/Contract Administrator the Employer may also withhold 5% of the amount shown as due on subsequent Payment Certificates until the Contractor issues an updated Programme as required under clauses A1.2 and A1.3.
- A1.5** If non-financial consequences have been selected for failure to submit a Programme, the Contractor shall not start work on Site until a valid Programme has been submitted in accordance with item T. The Contractor shall be responsible for any resulting delay or costs.

A2. Contractor Design

- A2.1** If item U is selected in the Contract Details, the Contractor shall:
- A2.1.1** Design the parts of the Works described in item U of the Contract Details and integrate that design into the Works.
- A2.1.2** Use reasonable skill, care and diligence to the standard that a professional designer competent in designing Works of a similar nature would use.
- A2.1.3** Ensure that its design is in accordance with the Employer's specification as stated in the Contract Documents.
- A2.2** At least 21 days before carrying out any part of the Works listed under item U, the Contractor shall submit details of its design to the Architect/Contract Administrator for comment.
- A2.3** If the option 'Contractor's design to be fit for purpose' is selected within item U, then clause A2.1.2 shall not apply and the Contractor's design shall be fit for the purpose indicated in the Contract Documents.
- A2.4** The Contractor is not liable for designs provided by the Employer or the Employer's agents but shall notify the Architect/Contract Administrator of any discrepancies that it finds in such designs.
- A2.5** The Contractor retains the intellectual property rights in its design and grants the Employer irrevocable licences and permissions to use the design for the Works and related purposes.
- A2.6** The Contractor shall compensate the Employer for all claims in respect of the Contractor's designs.
- A2.7** The Contractor shall ensure that there is adequate professional indemnity insurance for its design responsibilities, as set out in item M of the Contract Details.

A3. Completion in Sections.

- A3.1** If item V is selected in the Contract Details then the Works shall be divided into Sections as described in the schedule under that item.
- A3.2** The start date for each Section shall be as stated on the schedule under item V; if no date is stated, the Section start date will be the Start Date specified in item H.
- A3.3** The Date for Completion for each Section shall be as stated on the schedule under item V.

A4. Payment on Completion of the Works and Milestone Payment

- A4.1** If item W1 is selected in the Contract Details then, subject to clause 7.4, the Employer shall pay the Contractor the Contract Price when the Architect/Contract Administrator has certified Practical Completion.
- A4.2** If item W2 is selected in the Contract Details, then item P and clauses 7.1, 7.2 and 7.3 on how Due Dates are calculated shall not apply.
- A4.3** If item W2 is selected, the Parties will set out the anticipated dates for completion for all milestones and these shall be the Due Dates for payment.
- A4.4** When the Architect/Contract Administrator is satisfied that a milestone has been achieved it shall include the payment for that milestone in the Payment Certificate issued for the relevant Due Date.

A5. Advanced Payment.

- A5.1** If item X is selected in the Contract Details then the Employer shall pay the Contractor an Advanced Payment amount as set out in that item. The Employer shall deduct a repayment from each interim Payment Certificate in accordance with the repayment schedule in item X.
- A5.2** If the 'Advanced Payment Security' option is selected, the Employer shall not be liable to pay any Advanced Payment sums until the Contractor has met the stated requirements for the Advanced Payment bond.

A6. Evidence of Ability to Pay the Contract Price

- A6.1** If item Y is selected in the Contract Details then the Employer shall provide evidence of its ability to pay the Contract Price within 21 days of receiving a request from the Contractor. If the Employer fails to provide such evidence, the Contractor may suspend some or all of its obligations under clause 8 of the Contract.

A7. Required Specialists

- A7.1** If item Z is selected in the Contract Details then the following clauses shall apply:
- A7.1.1** The Contractor shall be given reasonable advance notice of the Required Specialists and is deemed to be satisfied with their suitability.
- A7.1.2** Subject to clause A7.1.1, the Contractor shall, at the Start Date or thereafter as appropriate, employ the Required Specialists to undertake the part(s) of the Works described in item Z.
- A7.1.3** The Contractor is solely responsible for all the work, services and performance of the Required Specialists, including any design undertaken by them.
- A7.1.4** If the Contractor terminates the employment of a Required Specialist, it shall notify the Architect/Contract Administrator and the Architect/Contract Administrator shall issue appropriate instructions regarding a replacement.
- A7.1.5** The Contractor shall be entirely responsible for any delay or additional costs arising from the termination and replacement of a Required Specialist.

A8. Collateral Warranty / Third Party Rights Agreement

- A8.1** If item AA is selected in the Contract Details then the Contractor shall, not later than 14 days after a request by the Employer, execute a collateral warranty or a Third Party Rights Agreement in favour of the parties identified by the Employer in item AA of the Contract Details. The collateral warranty or Third Party Rights Agreement shall be signed as a simple contract or as a deed, in line with the option selected in the Agreement section of the Contract.
- A8.2** The Contractor shall comply with clause A8.1 before the Architect/ Contract Administrator issues a Certificate of Practical Completion under clause 9.16.

A9. Public Sector Clauses.

Official Secrets and Transparency:

- A9.1** If item BB is selected in the Contract Details then the Contractor shall adhere to, and ensure that all its employees, agents or subcontractors adhere to, all legislation relating to official secrets. The Contractor shall keep, and shall ensure that all its employees, agents or subcontractors keep, all information related to the Contract and the Works confidential.
- A9.2.1** The Employer shall be responsible for disclosing information under the Freedom of Information Act 2000 (FOIA). The Contractor shall pass all requests for information under the FOIA to the Employer.
- A9.2.2** It shall be at the Employer's sole discretion to specify which aspects of the Contract are confidential and not subject to disclosure under the FOIA.

Legislation on Discrimination and Bribery:

- A9.3** In carrying out the Works:
- A9.3.1** The Contractor shall ensure that discrimination in any form is not practised or allowed; the Contractor shall comply with all anti-discrimination laws and ensure that all subcontractors, suppliers and specialists observe these laws.
- A9.3.2** The Contractor shall ensure that no form of bribery and/or corruption is engaged in and shall observe all laws and regulations on anti-corruption. The Contractor shall notify the Employer if any of the Employer's agents solicit a bribe of any type.
- A9.4** A breach of clause A9.3 shall entitle the Employer to terminate the Contractor's employment under the Contract using the procedure in clause 12.1.

A10. Risks Register

- A10.1** If item CC is selected in the Contract Details then the Architect/Contract Administrator shall maintain a Risks Register, which shall contain the identified risks and risks mitigation procedure set out by the Parties under clause 3.1.

A11. Rules for Valuation of Revision of Time and Additional Payment

- A11.1** If item DD is selected in the Contract Details then the Parties shall set out the rules that the Architect/Contract Administrator shall follow in evaluating an application for a Revision of Time and reviewing an application for additional payment.

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