## Contents

|  | Agreement  | 1  |
|--|--|----|
|  | Recitals   | 2  |
| 1<br>2<br>3<br>4<br>5<br>6<br>7<br>8<br>9<br>10<br>11                | Articles<br>Contractor's obligations<br>Target Cost<br>Payment by the Employer<br>Collaborative working<br>Employer's Agent<br>Employer's Requirements and Contractor's Proposals<br>CDM Regulations – Principal Designer and Principal Contractor<br>Building Regulations – Principal Designer and Principal Contractor<br>Adjudication<br>Arbitration<br>Legal proceedings                   | 4  |
|  | Contract Particulars   | 7  |
|  | Attestation  | 24 |
|  | Conditions   | 31 |
| Section 1  | Definitions and Interpretation   | 31 |
| 1.1  | Definitions  |    |
| 1.2<br>1.3<br>1.4<br>1.5<br>1.6<br>1.7<br>1.8<br>1.9<br>1.10<br>1.11 | Interpretation<br>Reference to clauses etc.<br>Agreement etc. to be read as a whole<br>Headings, references to persons, legislation etc.<br>Reckoning periods of days<br>Contracts (Rights of Third Parties) Act 1999<br>Notices and other communications<br>Effect of Final Statement<br>Effect of payments other than payment of Final Statement<br>Consents and approvals<br>Applicable law |    |
| Section 2  | Carrying out the Works   | 39 |
| 2.1<br>2.2   | <b>Contractor's Obligations</b><br>General obligations<br>Materials, goods and workmanship   |    |
| 2.3<br>2.4<br>2.5<br>2.6   | <b>Possession</b><br>Date of Possession – progress<br>Deferment of possession<br>Early use by Employer<br>Work not forming part of the Contract  |    |
| 2.7<br>2.8<br>2.9  | Supply of Documents, Setting Out etc.<br>Contract Documents<br>Construction information<br>Site boundaries   |    |

## Discrepancies and Divergences

- 2.10 Divergence in Employer's Requirements and definition of site boundary
- 2.11 Preparation of Employer's Requirements
- 2.12 Employer's Requirements inadequacy
- 2.13 Notice of discrepancies etc.
- 2.14 Discrepancies in documents
- 2.15 Divergences from Statutory Requirements
- 2.16 Emergency compliance with Statutory Requirements

#### Design Work – liabilities and limitation

2.17 Design Work – liabilities and limitation

## Fees, Royalties and Patent Rights

- 2.18 Fees or charges legally demandable
- 2.19 Patent rights and royalties Contractor's indemnity
- 2.20 Patent rights Instructions

#### Unfixed Materials and Goods - property, risk etc.

- 2.21 Materials and goods on site
- 2.22 Materials and goods off site

## Adjustment of Completion Date

- 2.23 Related definitions and interpretation
- 2.24 Notice by Contractor of delay to progress
- 2.25 Fixing Completion Date
- 2.26 Relevant Events

#### Practical Completion, Lateness and Liquidated Damages

- 2.27 Practical completion
- 2.28 Non-Completion Notice
- 2.29 Payment or allowance of liquidated damages

### Partial Possession by Employer

- 2.30 Contractor's consent
- 2.31 Practical completion date
- 2.32 Defects etc. Relevant Part
- 2.33 Insurance Relevant Part
- 2.34 Liquidated damages Relevant Part

#### Defects

- 2.35 Schedules of defects and instructions
- 2.36 Notice of Completion of Making Good

#### Contractor's Design Documents

- 2.37 As-built Drawings
- 2.38 Copyright and use

## Section 3 Control of the Works

#### Access and Representatives

- Access for Employer's Agent
- 3.2 Site Manager

3.1

#### Sub-Contracting

- 3.3 Consent to sub-contracting
- 3.4 Conditions of sub-contracting

#### Employer's Instructions

- 3.5 Compliance with instructions
- 3.6 Non-compliance with instructions
- 3.7 Instructions other than in writing
- 3.8 Provisions empowering instructions
- 3.9 Changes definition
- 3.10 Instructions requiring Changes
- 3.11 Postponement of work
- 3.12 Inspection tests
- 3.13 Work not in accordance with the Contract
- 3.14 Workmanship not in accordance with the Contract
- 3.15 Antiquities, asbestos, contaminated material and unexploded ordnance

# **CDM Regulations and Part 2A of the Building Regulations** CDM Regulations and Part 2A of the Building Regulations

| 3.16  | CDM Regulations and Part 2A of the Building Regulations   |    |
|---|---|----|
| Section 4   | Payment   | 57 |
| 4.1<br>4.2<br>4.3   | <b>Target Cost and Adjustments</b><br>Adjustment only under the Conditions<br>Items included in adjustments<br>Taking adjustments into account  |    |
| 4.4<br>4.5<br>4.6<br>4.7                                  | Amounts and Calculation<br>Amounts payable<br>Allowable Cost<br>Contract Fee<br>Sharing differences from the Adjusted Target Cost   |    |
| 4.8<br>4.9  | Taxes<br>VAT<br>Construction Industry Scheme (CIS)  |    |
| 4.10<br>4.11<br>4.12<br>4.13<br>4.14<br>4.15              | Payments and Notices – general provisions<br>Advance payment<br>Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices<br>Relevant statement and Final Payment Notice<br>Interim and final payments – final date and amount<br>Pay Less Notices and other general provisions<br>Contractor's right of suspension   |    |
| 4.16<br>4.17  | Interim Payments – calculation of sums due<br>Gross Valuation<br>Sums due as Interim Payments   |    |
| 4.18<br>4.19<br>4.20                                      | <b>Retention</b><br>Rules on treatment of Retention<br>Retention Bond<br>Retention – amounts and periods  |    |
| 4.21  | Final Statement and Final Payment<br>Final Statement and Final Payment  |    |
| Section 5   | Injury, Damage and Insurance  | 64 |
| 5.1<br>5.2<br>5.3   | <b>Personal Injury and Property Damage</b><br>Contractor's liability – personal injury or death<br>Contractor's liability – loss, injury or damage to property<br>Loss or damage to Existing Structures or their contents   |    |
| 5.4<br>5.5<br>5.6   | Insurance against Personal Injury and Property Damage<br>Contractor's insurance of its liability<br>Contractor's insurance of liability of Employer<br>Excepted Risks   |    |
| 5.7<br>5.8<br>5.9<br>5.10<br>5.11<br>5.12<br>5.13<br>5.14 | Insurance of the Works and Existing Structures<br>Insurance Options and period<br>Related definitions<br>Sub-contractors – Specified Perils cover under Works Insurance Policies<br>Terrorism Cover – policy extensions and premiums<br>Terrorism Cover – non-availability – Employer's options<br>Evidence of insurance<br>Loss or damage – insurance claims and reinstatement<br>Loss or damage to Existing Structures – right of termination |    |
| 5.15<br>5.16  | <b>Professional Indemnity Insurance</b><br>Obligation to insure<br>Increased cost and non-availability  |    |

| 5.17<br>5.18<br>5.19<br>5.20    | Joint Fire Code – compliance<br>Application of clauses<br>Compliance with Joint Fire Code<br>Breach of Joint Fire Code – Remedial Measures<br>Joint Fire Code – amendments/revisions                       |
|---------------------------------|--|
| Section 6                       | Assignment, Performance Bonds and Guarantees, Third Party Rights and Collateral Warranties   |
| 6.1<br>6.2                      | Assignment<br>General<br>Rights of enforcement   |
| 6.3                             | Performance Bonds and Guarantees Performance Bonds and Guarantees  |
| 6.4<br>6.5<br>6.6               | <b>Clauses 6.7 to 6.11 – Preliminary</b><br>Rights Particulars<br>Notices<br>Execution of Collateral Warranties  |
| 6.7<br>6.8                      | Third Party Rights from Contractor<br>Rights for Purchasers and Tenants<br>Rights for a Funder   |
| 6.9<br>6.10                     | <b>Collateral Warranties from Contractor</b><br>Contractor's Warranties – Purchasers and Tenants<br>Contractor's Warranty – Funder   |
| 6.11                            | Third Party Rights and Collateral Warranties from Sub-Contractors<br>Third Party Rights and Collateral Warranties from Sub-Contractors   |
| Section 7                       | Termination  |
| 7.1<br>7.2<br>7.3               | <b>General</b><br>Meaning of insolvency<br>Notices under section 7<br>Other rights, reinstatement  |
| 7.4<br>7.5<br>7.6<br>7.7<br>7.8 | <b>Termination by Employer</b><br>Default by Contractor<br>Insolvency of Contractor<br>Corruption<br>Consequences of termination under clauses 7.4 to 7.6<br>Employer's decision not to complete the Works |
| 7.9<br>7.10                     | Termination by Contractor<br>Default by Employer<br>Insolvency of Employer   |
| 7.11                            | Termination by either Party<br>Termination by either Party   |
| 7.12                            | <b>Consequences of Termination under clauses 7.9 to 7.11, etc.</b><br>Consequences of Termination under clauses 7.9 to 7.11, etc.  |
| 7.13                            | <b>Termination Payment – final date, notices and amount</b><br>Termination Payment – final date, notices and amount  |
| Section 8                       | Settlement of Disputes   |
| 8.1                             | Notification and negotiation of disputes<br>Notification and negotiation of disputes   |
| 8.2                             | Mediation<br>Mediation   |

72

76

84

## Arbitration

- 8.4 Conduct of arbitration
- 8.5 Notice of reference to arbitration
- 8.6 Powers of Arbitrator
- 8.7 Effect of award

\_\_\_\_\_

- 8.8 Appeal – questions of law 8.9
  - Arbitration Act 1996

|            | Schedules   | 86   |
|------------|---|------|
| Schedule 1 | Adjusted Target Cost<br>Part 1: General<br>Part 2: Changes and the Valuation Rules<br>Part 3: Loss and Expense  | 86   |
| Schedule 2 | Allowable Cost<br>Part 1: General<br>Part 2: Sub-Contract Work<br>Part 3: Contractor's Management and Design Staff on Site etc.<br>Part 4: Contractor's Direct Workforce<br>Part 5: Materials and Goods provided by the Contractor<br>Part 6: Plant, Services and Consumable Stores provided by the Contractor<br>Part 7: Sundry Costs incurred by the Contractor | 90   |
| Schedule 3 | Adjustment of Contract Fee (Fixed Sum only)   | 96   |
| Schedule 4 | Design Submission Procedure   | 97   |
| Schedule 5 | <b>Supplemental Provisions</b><br>Part 1<br>Part 2  | 98   |
| Schedule 6 | Insurance Options   | 104  |
|            | Insurance Option A<br>(New Buildings – All Risks Insurance of the Works by the Contractor)  |      |
|            | Insurance Option B<br>(New Buildings – All Risks Insurance of the Works by the Employer)  |      |
|            | Insurance Option C<br>(Joint Names Insurance by the Employer of Existing Structures and Works in or Extensions to the   | ıem) |
| Schedule 7 | Code of Practice  | 107  |
| Schedule 8 | <b>Third Party Rights</b><br>Part 1: Third Party Rights for Purchasers and Tenants<br>Part 2: Third Party Rights for a Funder   | 108  |
| Schedule 9 | <b>Forms of Bonds</b><br>Part 1: Advance Payment Bond<br>Part 2: Bond in respect of payment for off-site materials and/or goods<br>Part 3: Retention Bond   | 113  |