

JCT STANDARD BUILDING CONTRACT WITH QUANTITIES 2011

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ARTICLES

Article 4: Quantity Surveyor^[9] is

[9] If the Architect/Contract Administrator is to exercise the Quantity Surveyor's functions under the Conditions, his name should be inserted in Article 4.

ARTICLES

Article 5: CDM Co-ordinator

..... Or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14 (31) of those regulations.

ARTICLES

Article 6: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations **and the SWMP 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 (**32**) of **the CDM Regulations and/or regulation 4 of the SWMP Regulations those regulations.**

ARTICLES

Article 8: Arbitration

Where Article 8 applies^[12], then, subject to Article 7 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with the Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2005 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR).

CONTACT PARTICULARS

Part 1: General

Clause 4.9.12

Dates of issue of Interim Certificates

Interim payments – due dates

(If no date is none are stated, the first due date is Interim Certificate is to be issued within one month after of the Date of Possession.

The first due date is:

_____ and thereafter the same date in each month.....^[19]

[19] The first date should not be more than one month after the Date of Possession. Where it is intended that interim payments should become due **Interim Certificates be issued** on the last day of each month, the entry may be completed/amended to read "the last day of (insert month) and thereafter the last day in each month or the nearest Business Day in that month." After practical completion, clause 4.9.12 allows for intervals of 2 months (or such period as the Parties agree) between **interim payments Interim Certificates**.

CONTACT PARTICULARS

Part 1: General

Clause 6.10 and Schedule 3

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.

CONTACT PARTICULARS

Part 1: General

Clause 6.1211

Contractor's Designed Portion (CDP)
Professional Indemnity Insurance

.....

(If no amount is stated, insurance under
Clause 6.1211 shall not be required.)

Sub-limits within the overall level of cover

CONTACT PARTICULARS

Part 1: General

Clause 6.1211

Cover for pollution and contamination claims (If no amount is stated, such cover shall not be required; unless otherwise stated, the required limit of indemnity is an annual aggregate amount.)

* is required with a **sub**-limit of indemnity of
£ _____/

* is not required

Cover for asbestos claims
(If no amount is stated, such cover shall not be required; unless otherwise stated, the required limit of indemnity is an annual aggregate amount.)

* is required, with a limit of indemnity of
£ _____/

* is not required

Cover for fungal mould claims

* is required/
is not required

CONTACT PARTICULARS

Part 1: General

Clause 9.2.1

Adjudication

Nomination body – where no Adjudicator is named or where the Named Adjudicator is.....

The Adjudicator is _____

- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * constructionadjudicators.com^[27]
- * [Construction Confederation Association of Independent Construction Adjudicators](#)^[28]
- * [National Specialist Contractors Council](#)
- Chartered Institute of Arbitrators.

[27] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

[28] [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.

CONDITIONS

SECTION 1 - Definitions and Interpretation

Definitions - 1.1

Final Payment Notice:	see clause 4.15.6.
Funder Rights Particulars:	the entries against clause 6.1211 in Part 1.....
Interim Application:	see clause 4.11.
Interim Certificate:	any of the certificates to which clause 4.10.1 4.9 refers.
Interim Payment Notice:	see clause 4.11.2.
P&T Rights Particulars:	the entries against Clause 6.1211 in Part 1.....
Pay Less Notice:	see clauses 4.12.5 and 4.13.1.
Retention:	see clauses 4.9.210 and 4.18 to 4.20.
SWMP Regulations:	the Site Waste Management Plan Regulations 2008.

CONDITIONS

SECTION 1 - Definitions and Interpretation

Interpretation

Headings, references to persons, legislation, etc.

1.4.5 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.**

Issue of Architect/Contract Administrator's certificates

1.8 **Except where otherwise specifically provided, e**Each certificate to be issued by the Architect/Contract Administrator under these Conditions shall be issued to the Employer, and **immediately upon issue the Architect/Contract Administrator shall send a copy of it to** the Contractor at the same time.

CONDITIONS

SECTION 1 - Definitions and Interpretation

Interpretation

Effect of Final Certificate

- 1.9.2 If **any** adjudication, arbitration or other proceedings have been commenced by either Party.....
- 1.9.3 If **any** adjudication, arbitration or other proceedings are commenced by either Party.....
- 1.9.4 In the case of a dispute or difference on which an Adjudicator gives his decision on a date **which is** after the date of issue of the final Certificate.....

Disputes or Differences

- 1.11 A dispute or difference shall include any failure to issue an Interim Certificate or the Final Certificate on time or at all.

CONDITIONS

SECTION 2 - Carrying out the Works

Adjustment of Completion Date

Relevant Events

- 2.29.2 Architect/Contract Administrator's instructions:
- .1 under any of clauses 2.15, 3.15, 3.16 (excluding an instruction for expenditure or a Provisional Sum for defined work), 3.22.2 or 5.3.2; or
- 2.29.4 compliance with clause 3.22.1 or with Architect/Contract Administrator's instructions under clause 3.22.2;
- 2.29.65 suspension by the Contractor under clause 4.14 of the performance of any or all of his obligations under this contract.

CONDITIONS

SECTION 2 - Carrying out the Works

Practical Completion, Lateness and Liquidated Damages

Payment or allowance of liquidated damages

2.32.1 Provided:

- .1 the Architect/Contract Administrator has issued a Non-Completion Certificate for the Works or a Section; and
- .2 the Employer has notified the Contractor before the date of the Final Certificate that he may require payment of, or may withhold or deduct, liquidated damages,

the Employer may, not later than 5 days before the final date for payment of the **amount payable under clause 4.15 debt due under the Final Certificate**, give notice to the Contractor in the terms set out in clause 2.32.2.

CONDITIONS

SECTION 2 - Carrying out the Works

Practical Completion, Lateness and Liquidated Damages

Payment or allowance of liquidated damages

2.32.2 A notice from the Employer under clause 2.32.1 shall state that for the period between the Completion Date and the date of practical completion of the Works or that Section:

- .2 that he will withhold or deduct liquidated damages at the rate stated in the Contract Particulars, or at such lesser stated rate, from sums due to the Contractor. ^[41]

[41] In addition to the notice under clause 2.32.2, the Employer, if he intends to withhold or deduct all or any of the liquidated damages payable, must give the appropriate Pay Less Notice under clause 4.12.5, 4.15.4 or 4.15.6.3. Where the Employer intends to withhold all or any of the liquidated damages payable, either the notice under clause 2.32.2 must comply with the requirement of clause 4.13.4 of 4.15.4 or a separate notice that complies with those requirements must be given.

CONDITIONS

Section 3 Control of the works –

Conditions of Sub-contracting

3.9.4 that if by the final date for payment stated in the sub-contract the Contractor fails **properly** to pay **a sum any amount**, or any part of it, due to the sub-contractor, the Contractor shall, in addition to **any unpaid amount that should properly have been paid, the amount not properly paid** pay simple interest **on that amount** at the Interest Rate for the period **from the final date for payment** until such payment is made; such payment of interest to be on and subject to terms equivalent to those of clauses **4.12.6 4.13.6** and **4.15.7 4.15.6** of these Conditions;

CONDITIONS

SECTION 4 - Payment

Contract Sum and Adjustments

Items included in adjustments

4.3.1 The Contract Sum shall be adjusted by:

.3 (where Insurance Option A applies) any variation in premium referred to in **clause 6.10.2 paragraph A.5.1 of Schedule 3**.

4.3.3 There shall be added to the Contract Sum:

.5 any amounts paid by the Contractor under Insurance Option B or C or under clause 2.6.2, **6.10.3, 6.11.3 or 6.17** which the Contractor is entitled to have added to the Contract Sum;

.6 any amounts payable to the Contractor under whichever Fluctuations Option applies; **and**

.7 any amounts payable under clause 4.14.2; and

.8 7 any other amount required by this Contract to be added to the Contract Sum.

CONDITIONS

SECTION 4 - Payment

Contract Sum and Adjustments

Final adjustment

4.5.2 Not later than 3 months after receipt **by the Architect/Contract Administrator or by the Quantity Surveyor** of the documents referred to in clause 4.5.1:

- .1 the Architect/Contract Administrator, or, if he so instructs, the Quantity Surveyor, shall (unless previously ascertained) ascertain the amount of any loss and/or expense under clause 4.23; and
- .2 the Quantity Surveyor shall prepare a statement of all adjustments to be made to the Contract Sum under clause 4.3, other than any loss and/or expense then being ascertained **under clause 4.5.2.1,**

and the Architect/Contract Administrator shall **within that 3 month period forthwith** send to the Contractor a copy of that statement and (if applicable) that ascertainment.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Interim payments – due dates and amounts due

4.9 .1 For the period up to practical completion of the Works, the due dates for interim payments by the Employer shall be the monthly dates specified in the Contract Particulars up to either the date of practical completion or the specified date within one month thereafter. The due dates shall subsequently be the specified date at intervals of 2 months (unless otherwise agreed). The last due date shall be the date of expiry of the Rectification Period or, if later, the date of issue of the Certificate of Making Good (or, where there are Sections, the last such period or Certificate).

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Interim payments – due dates and amounts due

- 4.9 .2 Subject to any agreement between the Parties as to stage payments, the sum due as an interim payment shall be the Gross Valuation under clause 4.16 less the aggregate of:
- .1 any amount which may be deducted and retained by the Employer as provided in clauses 4.18 to 4.20 (“the Retention”);
 - .2 the cumulative total of the amounts of any advance payment that have then become due for reimbursement to the Employer in accordance with the terms stated in the Contract Particulars for clause 4.8;
 - .3 the sums stated as due in previous Interim Certificates; and
 - .4 any sums paid in respect of an Interim Payment Notice given after the issue of the latest Interim Certificate, whether as adjusted by a Pay Less Notice or otherwise.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Interim Certificates and valuations

- 4.10 .1 The Architect/Contract Administrator shall not later than 5 days after each due date issue an Interim Certificate, stating the sum that he considers to be or have been due at the due date to the Contractor in respect of the interim payment, calculated in accordance with clause 4.9.2, and the basis on which that sum has been calculated.
- .2 Interim valuations shall be made by the Quantity Surveyor whenever the Architect/Contract Administrator considers them necessary for ascertaining the amount to be stated as due in an Interim Certificate, except where Fluctuations Option C (*formula adjustment*) applies^[48], when an interim valuation shall be made before the issue of each Interim Certificate.

[48] See the Contract Particulars under the reference to clause 4.21 and Schedule 7.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Contractor's Interim Applications and Payment Notices

- 4.11 .1 In relation to any interim payment the Contractor may not less than 7 days before the due date make an application to the Quantity Surveyor (an 'Interim Application'), stating the sum that the Contractor considers will become due to him at the relevant due date in accordance with clause 4.9.2 and the basis on which that sum has been calculated.
- .2 If an Interim Certificate is not issued in accordance with clause 4.10.1, then:
- .1 where the Contractor has made an Interim Application in accordance with clause 4.11.1, that application is for the purposes of these Conditions an Interim Payment Notice; or
 - .2 where the Contractor has not made an Interim Application, he may at any time after the 5 day period referred to in clause 4.10.1 give an Interim Payment Notice to the Quantity Surveyor, stating the sum that the Contractor considers to be or have been due to him at the relevant due date in accordance with clause 4.9.2 and the basis on which that sum has been calculated.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Interim Certificates – payments – final date and amount

- 4.1213 .1 Subject to clause 4.12.4, the final date for payment of an interim payment pursuant to an Interim Certificate shall be 14 days from its due date the date of issue of that Interim Certificate.
- .2 Subject to any Pay Less Notice given by the Employer under clause 4.12.5, the sum to be paid by the Employer before the final date for payment shall be the sum stated as due in the Interim Certificate.
- .3 If the Interim Certificate is not issued in accordance with clause 4.10.1, but an Interim Payment Notice has been given under clause 4.11, the sum to be paid by the Employer shall, subject to any Pay Less Notice under clause 4.12.5, be the sum as stated as due in the Interim Payment Notice.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Interim Certificates – payments – final date and amount

- 4.1213 .4 Where an Interim Payment Notice is given under clause 4.11.2.2, 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 as the number of days after expiry of the 5 day period referred to in clause 4.10.1 that the Interim Payment Notice is given.
- .5 If the Employer intends to pay less than the sum stated as due from him in the Interim Certificate or Interim Payment Notice, 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 in accordance with clause 4.13.1 (a 'Pay Less Notice'). Where a Pay Less 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.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Interim Certificates – payments – final date and amount

4.12.13 .6 If the Employer fails properly to pay a sum 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 any unpaid amount that should properly have been paid the amount not properly 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 4.12.6 4.13 shall be a debt due to the Contractor from by the Employer.

.7 8 Acceptance of a payment of interest under this clause 4.12.6 4.13 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 4.14 or to terminate his employment under section 8.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Pay Less Notices and general provisions

4.13 .1 A Pay Less Notice:

- .1 (where it is to be given by the Employer) shall specify both the sum that 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, and may be given on behalf of the Employer by the Architect/Contract Administrator, Quantity Surveyor or Employer's representative or by any other person who the Employer notifies the Contractor as being authorised to do so;
- .2 (where it is to be given by the Contractor) shall be sent to the Employer, with a copy to the Architect/Contract Administrator, and shall specify both the sum that the Contractor considers to be due to the Employer at that date and the basis on which that sum has been calculated;

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Pay Less Notices and general provisions

4.13 .1 A Pay Less Notice:

.3 may not be given in relation to a payment for which an Interim Certificate or the Final Certificate has not been issued until the Contractor has in respect of the payment given an Interim Payment Notice or Final Payment Notice.

.2 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.

.3 Notwithstanding his fiduciary interest in the Retention as stated in clause 4.18, the Employer is entitled to exercise any rights under this Contract of withholding or deduction from sums due or to become due to the Contractor, whether or not any Retention is included in any such sum under clause 4.20.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Contractor's right of suspension

4.14 .1 Without affecting the Contractor's other rights and remedies, if the Employer **subject to any notice issued pursuant to clause 4.13.4**, fails to pay the Contractor **in full the sum payable in accordance with clause 4.12** (including together with 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 notice to the Employer, with a copy to the Architect/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 of any or all of those obligations** until payment is made in full.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Contractor's right of suspension

- 4.14 .2 Where the Contractor exercises his right of suspension under clause 4.14.1, 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 Architect/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.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Final Certificate – issue and final payment ^[50]

4.15 .2 The Final Certificate shall state:

- .1 the Contract Sum as adjusted as necessary in accordance with clause 4.3; and
- .2 the sum of the amounts already stated as due in Interim Certificates plus the amount of any advance payment paid pursuant to clause 4.8 and (where relevant) any such sums as are referred to in clause 4.9.2.4;

and the difference (if any between the two sums shall (without affecting the rights of the Contractor in respect of any interim payment Interim Certificate not paid in full by the Employer by its final date for payment) the final payment shall be the difference (if any) between the two sums, which shall be shown be expressed in the Final Certificate as a balance due to the Contractor from the Employer or to the Employer from the Contractor, as the case may be. The Final Certificate shall state the basis on which that amount has been calculated.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Final Certificate – issue and final payment ^[50]

- 4.15 .3 The due date for the final payment shall be the date of issue of the Final Certificate or, if that certificate is not issued within the 2 month period referred to in clause 4.15.1, the last day of that period and, subject to clause 4.15.6, the final date for payment shall be 28 days from its due date.
- .4 If the Party by whom the final payment is stated to be payable ('the payer') intends to pay less than the stated balance, he shall not later than 5 days before the final date for payment give the other Party a Pay Less Notice in accordance with clause 4.13.1.

[50] The effect of the Final Certificate is set out in clause 1.9.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Final Certificate – issue and final payment ^[50]

- 4.15 .5 Where a Pay Less Notice is given under clause 4.15.4, 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 Final Certificate is not issued in accordance with clauses 4.15.1 and 4.15.2:
- .1 the Contractor may at any time after expiry of the 2 month period referred to in clause 4.15.1 give notice to the Employer with a copy to the Architect/Contract Administrator (a 'Final Payment Notice') stating what the Contractor considers to be the amount of the final payment due to him under this Contract and the basis on which the sum has been calculated and, subject to any Pay Less Notice given under clause 4.15.6.3, the final payment shall be that amount;

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Final Certificate – **issue** and **final** payment ^[50]

- 4.15 .6 .2 if the Contractor gives a Final Payment Notice, 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 as the number of days after expiry of the 2 month period that the Final Payment Notice is given;
- .3 following the Final Payment Notice the Employer may not later than 5 days before the final date for payment give a Pay Less Notice in accordance with clause 4.13.1 and, if he gives such notice, the provisions of clause 4.15.5 shall correspondingly apply.

CONDITIONS

SECTION 4 - Payment

Certificates and Payments, Certificates and Notices

Final Certificate – issue and final payment ^[50]

- 4.15 .76 If the payer paying Party fails properly to pay the final payment balance, or any part of it, by the final date for its payment, he shall in addition to any unpaid amount that should properly have been paid, the amount not properly paid pay to the other Party simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made.
- .8 Acceptance of a payment of interest under this clause 4.15 shall not in any circumstances be construed as a waiver of any right to proper payment of the principal amount due balance.
- .9 The final payment balance due and any interest under this clause 4.15 shall be a debt due from by the payer paying Party to the other Party.

CONDITIONS

SECTION 4 - Payment

Gross Valuation

Ascertainment

4.16 The Gross Valuation shall be the total of the amounts referred to in clauses 4.16.1 and 4.16.2 less the total of the amounts referred to in clause 4.16.3, applied up to and including a date not more than 7 days before the **due** date of **an interim payment the Interim Certificate**.

.1 .1but excluding any amounts referred to in clause 4.16.2.43.

.2 The following which are not subject to Retention shall be included:

.1 any amounts to be included in Interim Certificates in accordance with clause 4.4 as a result of payments made or costs incurred by the Contractor under clause 2.6.2, 2.21, 2.23, 3.17, **or** 6.5, **6.10.2 or 6.10.3** or paragraph **A.5.1**, B.2.1.2 or C.3.1 of Schedule 3;

CONDITIONS

SECTION 4 - Payment

Gross Valuation

Ascertainment

4.16 .2 The following which are not subject to Retention shall be included:

.2 any amounts payable under clause 4.14.2;

.32 any amounts ascertained under clause 4.23;

.43 any amounts in respect of any restoration, replacement or repair of loss or damage and removal and disposal of debris under paragraph B.3.5 or C.4.5.2 of Schedule 3 or clause 6.11.5.26.10.4.2; and

.54 any amount payable to the Contractor under Fluctuations Option A or B, if applicable.

CONDITIONS

SECTION 4 - Payment

Gross Valuation

Ascertainment

4.16 .3 The following shall be deducted:

- .1 any amounts deductible under clause 2.10, 2.38, 3.11 or 3.18.2; and
- .2 any amount allowable by the Contractor to the Employer **under clause 6.10.2** or under Fluctuations Option A or B, if applicable.

Off-site materials and goods

4.17 The **sum amount** stated as due in an Interim Certificate shall include the value of any Listed Items before their delivery to or adjacent to the Works provided that the following conditions have been fulfilled:

CONDITIONS

SECTION 4 - Payment

Retention

Rules on treatment of Retention

4.18 The Retention which the Employer may deduct and retain as referred to in clause 4.9.2.1 4.10.1 shall be subject to the following rules:

- .1 the Employer's interest in the Retention is fiduciary as trustee for the Contractor (but without obligation to invest).
- .2 prior to the date for issue at the date of each Interim Certificate the Architect/Contract Administrator shall prepare, or instruct the Quantity Surveyor to prepare, and with that certificate shall issue to the Employer and the Contractor a statement specifying the amount of the Retention deducted (and, where relevant, the amount to be released in accordance with clause 4.20) in arriving at the sum amount stated as due in that Interim Certificate;

CONDITIONS

SECTION 4 - Payment

Retention

Rules on treatment of Retention

4.18 .3 except where the Employer is a Local Authority, the Employer **shall**, to the extent that he exercises his right under clause 4.20 and if the Contractor so requests, **shall** at the date of payment **under each Interim Certificate** place the Retention in a separate bank account (so designated as to identify the amount as the Retention held by the Employer on trust as provided in clause 4.18.1) and certify to the Architect/Contract Administrator and the Contractor that the amount has been so placed. The Employer shall be entitled to the full beneficial interest in any interest accruing on the separate bank account and shall he under no duty to account for any such interest to the Contractor or any sub-contractor.;