

# Small Works Contract

**SCOPE:** This Contract is intended for use with smaller works (such as a private house, or alterations, or extensions), described by drawings and/or a specification of works, but not using a bill of quantities; it provides for nominated sub-contractors and suppliers, also for fluctuations if required.

**It should not be used for more complex works**, or be regarded as a substitute for the CIOB Building Contract, which is designed for such works. The form may be used for Local Authority contracts provided that the appropriate attestation procedure is used to complete the contract.

# Small Works Contract

Contract made this day

(date)

between: .....

(the Employer/  
Client)

of: .....

of the one part

and: .....

(the Contractor)

of: .....

of the other part

**Recital** – whereas:

**R1** the Employer wishes to have carried out

works: .....

(describe work)

at: .....

(site address)  
(hereinafter  
"the works")

in accordance with a Specification\*/Schedule of works\*/drawings\* prepared

by: .....

Architect/  
Surveyor/Engineer  
(hereinafter  
"Contract  
Administrator")

of: .....  
acting on behalf of the Employer;

(if the drawings and/or the other particulars are by a Contract Administrator  
hereafter referred to as the Administrator;

**R2** the Contractor has made an estimate of the sum he requires to carry out the  
said works;

**R3** the said Specification\*/Schedule of works\*/drawings\* \*

no: ..... have been signed by both parties  
which, together with this Contract, are "the Contract documents";

**Agreement** – it is hereby agreed that:

**A1** the Contractor will, subject to the following Conditions, carry out and complete  
the works as described in the said drawings\*/Specification\*/Schedule of  
works\* for the "Contract sum". The Contractor shall also undertake the role of  
Principal Contractor for all matters of Health & Safety. \*

**A2** the Employer will pay to the Contractor

the sum: .....

(in words)

of £ ..... hereinafter called the "Contract  
sum", or such other sum as shall become payable at the times and in the  
manner specified in the following conditions;

- A3** The Contract sum shall be exclusive of Value Added Tax (see clause 6.6);
- A4** In the event of the Administrator dying or ceasing to act, the Employer may within 14 days of the death or cessation appoint another person in his/her stead, not being a person to whom the Contractor may object for reasons considered sufficient by the Employer or by an Arbitrator appointed under these conditions, and the person so engaged shall maintain written decisions already made;
- A4a** **Planning Supervisor** – If the work comes under the scope of the CDM Regulations then the duties of the Planning Supervisor will be carried out
- by:.....
- of:.....
- A4b** Upon the Planning Supervisor ceasing for whatever reason to hold that position and carry out those duties required of him, then the client shall appoint another forthwith and notify the Health & Safety Executive and the Principal Contractor of that change.
- A5** The parties hereto will abide by this Contract and the following Conditions.

As witness the hands of the parties here: *(for use in signing)*

Signed by the Employer in the presence of *(witness)*

..... + *status* ..... *name*

for and on behalf of: ..... *address*

..... *(firm)* .....

..... *occupation*

Signed by the Contractor in the presence of *(witness)*

..... + *status* ..... *name*

for and on behalf of: ..... *address*

..... *(firm)* .....

..... *occupation*

**Notes:** Should the Contract be executed as a Deed (formerly under seal), the parties should obtain advice as to how this should be executed as a speciality.

The Contract must be read as a whole, and each part or clause must be taken in conjunction with any other relevant part or clause. The law of England shall be the law of this Contract and any arbitration hereunder. Words used in this contract are as defined in the "Concise Oxford Dictionary".

The Contract documents shall be held by the Administrator, the Contractor and the employer to have a copy of them.

## Contract Conditions

### SECTION 1: Contractor's obligations, documents

- 1.1 **Execution of work** – the Contractor shall provide everything necessary for and shall carry out the works in accordance with the contract drawings and specification/schedule of works, and Health & Safety Plan, also with any further drawings, details, instructions, and explanations issued by the Administrator in accordance with these conditions.
- 1.2 **Responsibility** – the Contractor shall be responsible for the proper and efficient execution of the works as defined in clause 1.1, and any variations he may suggest to assist the practical efficiency of the work with the Administrator's approval, to a standard of finish to the Administrator's satisfaction.
- 1.3 **Statutory requirements** – the Contractor shall comply with all legal and statutory requirements, including the Building Regulations, and those of any statutory undertakers with whose systems the works will be connected – the following shall apply:
- 1.31 Necessary changes – before making any changes from the drawings and specification/schedule of works or safety plan so to conform or arising from an inspection by an authority, the Contractor shall apply to the Administrator for instructions – a variation order will be issued if warranted;
- 1.32 Notices, charges – the Contractor shall give all necessary notices, and pay all fees and charges legally demandable, these to be set against the provisional sum in the specification/schedule of works or added to the contract sum.
- 1.4 **Schedule of rates, extras** – at the signing of the contract (or before) the Contractor shall supply to the Administrator a full schedule of rates and a priced specification/schedule of works and if applicable, a Safety Plan upon which the tender was based – such rates and prices shall only be used for this contract;
- 1.41 Extras – no extra work shall be carried out or additional cost incurred unless authorised in writing by the Administrator except as provided elsewhere in this contract.
- 1.5 **Contract documents** – these shall be retained by the Administrator and be available for inspection by the Employer or Contractor at reasonable times – the following shall apply:
- 1.51 Documents for Contractor – the Administrator shall supply to the Contractor a certified copy of all the contract documents, also two copies of the drawings and specification/schedule of works for his use – further copies shall be at the Contractor's expense. The Planning Supervisor shall supply the Principal Contractor with two copies of the Pre-tender Health & Safety Plan for his use.
- 1.52 Site copies – the Contractor shall keep at least one copy of all drawings, the specification/schedule of works, Health & Safety Plan and other particulars on the site and in good condition (renewed as necessary) available also for the Administrator;
- 1.53 Use of drawings, copyright – the drawings and other particulars shall not be used for any purpose other than the contract – the Administrator's copyright shall be preserved;
- 1.54 Differences in documents – the Contractor shall notify the Administrator of any differences found in the drawings and specification/schedule of works, who shall decide the action to be taken and issue appropriate instructions.
- 1.55 Priority of contract documents – except where statute makes it a requirement of law on one or all of the duty holders nothing in the specification/schedule of works/drawings and Health & Safety Plan shall override or modify the contract conditions.
- 1.6 **Precautions, safety** – the Contractor shall safeguard the works generally, shall exercise care and take adequate precautions to prevent nuisance, loss, damage, or injury, to persons or property, including those adjoining. He shall maintain all his plant and equipment in sound condition, and comply with relevant statutory requirement. If applicable he shall also comply with the Health & Safety Plan at all times.

- 1.61 **Safety** – the Contractor shall take all necessary measures to safeguard the safety of persons on site and in the vicinity generally, and shall observe and conform if applicable with the provisions of the “Health & Safety at Work etc Act”/Regulations and any subsequent relevant legislation including the requirements of both the pre-tender and the contract Health & Safety Plan.
- 1.7 **Setting out of work** – the Administrator shall supply dimensioned drawings and/or other information necessary for the Contractor to set out the work and levels. The Contractor shall be responsible for the proper setting-out and shall rectify at his own expense any errors arising from his setting-out.

## SECTION 2: The Contract Administrator's Role, Instructions

- 2.1 **Administrator's design, function** – the Administrator has, on behalf of the Employer, prepared the design, and the drawings and particulars to describe it and the work required;
- 2.11 **General duties** – he shall represent the Employer throughout the contract, and will inspect the work in progress, certify payments, and deal with his part of the contract administration, as the clauses herein;
- 2.12 **Decisions** – interpretations and decisions by him shall be consistent with the contract documents, and be without partiality to either party;
- 2.13 **Client's instructions** – any instructions by the Employer shall be taken only by the Administrator, for interpretation and issue as appropriate by him to the Contractor.
- 2.2 **Administrator's inspection** – the Administrator will inspect the work in progress or work opened up under clause 3.6 on behalf of the Employer, and shall have the power to reject sub-standard work and work not in accordance with the Contract, but shall not be responsible for any failure by the Contractor to carry out and complete work to the terms of this Contract.
- 2.3 **Administrator's instructions** – the administrator may issue instructions, normally in writing, and the Contractor shall forthwith comply with these – if given verbally the Contractor shall confirm them in writing within seven days (unless already so confirmed by the Administrator) to the Administrator for him to confirm – the Contractor shall still comply unless the Administrator dissents within a further seven days. A variation order shall be issued if warranted. The following shall apply:
- 2.31 **Non-compliance** – if the Contractor delays or does not co-operate and comply with any Administrator's instruction without valid reason, the Administrator may give him 14 days notice (by recorded delivery) to comply – failing compliance the Employer may employ and pay another contractor to do the work at the Contractor's expense or to continue and complete the contract work under clause 9.1 “Default by Contractor” provided that any other contractor employed undertakes the duties of Principal Contractor or agrees in writing to conform to the Health & Safety Plan of the existing Principal Contractor.
- 2.32 **Damages** – the Contractor shall be liable to pay damages to the Employer at the rate in clause 4.1 “Progress, completion” for the delay period from the date of Administrator's instruction to the date of re-starting the work in question, unless the contract is completed in time or authorised extended time, or, failing re-starting and completion of such work, to the date of notice of determination by the Employer, as clause 9.14 “determination by Employer”.
- 2.4 **Further particulars** – the Administrator may issue to the Contractor further drawings and particulars to describe the work, two copies of each. The Contractor shall give fair and reasonable notice to the Administrator, having regard to the time factor, when requesting detail drawings and/or instructions.
- 2.5 **Authorities** – the Administrator will supply a copy of the authorities approvals obtained, and the Contractor shall comply therewith under clause 1.3 “Statutory requirements”.
- 2.51 The Employer acting as Client or his Agent will issue, if applicable, the relevant notices to the Health & Safety Executive and provide copies to the Principal Contractor prior to commencement on site.

## SECTION 3: Workmanship, Plant

- 3.1 Materials, workmanship** – the materials and workmanship shall be the best of their respective kinds, in accordance with the qualities and details described in the drawings and specification/schedule of work;
- 3.11 Standards** – the Contractor's and Sub-contractor's materials, goods and work shall conform to the relevant Agreement Board certificates, and at least to the latest British Standards (BS) and relevant BS Codes of Practice (BSCP);
- 3.12 Vouchers** – the Contractor shall produce to the Administrator, if requested, authentic vouchers to prove that materials and goods are of the standards and/or qualities and/or makes specified, and in default shall rectify his errors at his own cost.
- 3.2 Persons in charge, staff** – the Contractor shall keep on the works during all working hours a competent foreman in charge, empowered to discuss the work with the Administrator and take his instructions as if to the Contractor;
- 3.21 Suitable workers** – the Contractor shall employ adequate skilled workers to suit and carry out the work ensuring that they are properly trained and appraised of their duties under any legislation which may affect the works.
- 3.22 Reservation** – the Administrator may object to and require (but not unreasonably or vexatiously) the exclusion from the site of any person or firm employed thereon.
- 3.3 Protection, lighting etc** – The Contractor shall take all the reasonable precautions to exclude unauthorised persons from the site and the Contractor shall protect adequately each part of the works, including against adverse weather, also provide any watching and/or lighting necessary.
- 3.31 Lighting, power, water** – the Contractor shall also provide, install, and maintain in a safe manner all artificial lighting and power needed, also all water required.
- 3.4 Sample, tests** – samples of materials and goods shall, if requested, be submitted to the Administrator for his approval before being used. Approved samples clearly so marked shall be kept safely on site for checking, and all relevant items used shall conform therewith;
- 3.41 Tests** – the Contractor shall arrange for the tests of any materials at the Administrator's request, and report the results of these – such tests shall be at the Employer's expense unless they show non-compliance with contract requirements. The Contractor shall rectify at his own expense any work found faulty.
- 3.5 Plant** – the Contractor shall provide all the plant and equipment needed, including sheds, offices, and toilets, and maintain these in a safe and clean condition as clause 1.6 "Precautions, safety".
- 3.6 Opening up of work** – the Contractor shall open up work for inspection if instructed by the Administrator. If this is due to the Contractor failing to give any notice required to the Administrator or to the Authority of work which will be covered up, or should any fault in materials or workmanship be disclosed, the Contractor shall do the opening up and proper reinstatement at his own expense, also any necessary rectification – otherwise the approved cost shall be added to the contract sum.
- 3.7 Emergency work** – if emergency work becomes necessary the Contractor shall do the minimum needed for safety, and immediately notify the Administrator to seek his agreement and/or further instructions – a statement of such emergency work, with a valuation as under clause 7.2 "Variation cost", shall be sent to the Administrator within seven days for checking and approval.

## SECTION 4: Progress, Defects

- 4.1 **Progress, completion** – the Contractor shall conform with the following dates, shall proceed diligently and expeditiously with the work and shall be held responsible for any delays arising out of his failure so to do, unless such delays are beyond the Contractor's control. He shall frequently clear all debris, and leave the works clean, tidy, and satisfactory on completion.

Work may commence on..... (date)

and shall be completed by..... (date)

damages for non-completion £..... per week or part thereof

- 4.11 If the works come under the scope of the CDM Regulations, then despite the agreement of a date of possession as shown the Contractor shall not commence works on site until such time as he has written confirmation from the Client or his Agent that a satisfactory Health & Safety Plan under 15.4 of the Construction (Design & Management) Regulations 1994 exists or such other Regulations as may from time to time be enacted in their stead.

- 4.2 **Practical completion** – the date of practical completion shall be approved by the Administrator, from which date the defects of liability period of 6 \*\* months shall commence. "Practical completion" shall mean when the works are finished fit and ready for hand-over to and use by the Employer, with only acceptable minor items to be completed.

- 4.21 If the CDM Regulations apply then the Contract shall not be considered complete until such time as the Principal Contractor has passed all the relevant documentation to the Planning Supervisor for inclusion in the Health & Safety File, provided that the information has been requested in writing at least 7 days before the date of completion.

- 4.3 **Defects** – any defects, shrinkages, and other faults occurring during the work or within the defects liability period due to defective materials or workmanship, or to frost or other adverse weather conditions, shall be made good promptly and properly by the Contractor at his own expense including the cost of any cost of employing a Planning Supervisor if necessary. The Administrator shall list at the end of the defects liability period the outstanding defects he considers due for such making good. This clause shall not exempt the Contractor from liability for latent defects which may become apparent subsequently.

- 4.4 **Delay, extension of time** – the Contractor shall constantly do his best to progress the work. As and when delay becomes apparent, the Contractor shall forthwith give written notice to the Administrator, stating the reasons for and his estimates of the delay, if any, beyond the completion date in clause 4.1 "Progress, completion".

- 4.41 Extension of time – the Administrator shall consider any notice and case as clause 4.4, and shall, in his absolute discretion, grant an appropriate extension of time in writing if warranted by the circumstances.

- 4.5 **Non-completion, damages** – if the Contractor fails to complete the work or produce the relevant requested documentation by the contract date or an extension granted under the previous clause, the Contractor shall pay to the Employer the liquidated damages defined in clause 4.1 for the period of delay certified by the Administrator.

- 4.6 **Hostilities** – should hostilities involving the UK break out during this contract, either party may (by recorded delivery) give notice to determine the Contractor's employment but not before four weeks after general call-up of men or after practical completion. Within 14 days of such notice the Administrator may give instructions as to work to be continued to a certain point/points and/or protective work, notwithstanding the notice. Payment shall be as clause 9.25 "payment", but clause 9.26 "loss or damage" shall not apply. Neither this contract nor the foregoing shall prevent the parties making other arrangements between them;

- 4.61 War damage – if war damage is suffered to the work and/or to any materials or goods on site, the Administrator may issue instructions to do repair and/or protective work, and the Contractor shall make good the war damage and proceed to completion, all as a variation. If after war damage, either party gives notice under clause 4.7 "Hostilities", these Administrator's instructions shall still apply but under the terms of this clause 4.71.

\* Insert dates and amounts    \*\*insert alternative period if required

## SECTION 5: Sub-letting, Sub-contracts

- 5.1 **Sub-letting** – neither party shall without the written consent of the other assign this contract. The Contractor shall declare to the Administrator any intention to sub-let, with a list of items and firms; the Administrator may reject any item or firm, and the Contractor may then declare a substitute. The Employer may determine the Contractor's employment if excessive sub-letting or non-declaration is involved. Sub-letting shall not relieve the Contractor of his responsibilities under the Contract for the adequacy and quality of the work.
- 5.2 **Tax deduction** – the Contractor shall comply with the tax deduction scheme under the current Finance Act and Income Tax Regulations, and all other subsequent relevant legislation.
- 5.3 **Nominated sub-contractors** – the Administrator shall nominate (under pc sums) the specialist "nominated sub-contractors" to execute work at defined cost. The Contractor shall enter into sub-contracts with these firms in the same relevant terms as in this contract, and defining guarantees of performance, compliance with authorities requirements, details to Administrator's prior approval, liability for defects, and completion to the satisfaction of Contractor and Administrator. If for valid reasons the Contractor objects to a firm, or the specialist refuses the sub-contract terms, the Administrator may nominate another specialist.
- 5.31 **Co-ordination** – the Contractor shall make arrangements as to starting, and shall co-ordinate the sub-contractor's work to suit general progress;
- 5.32 **Responsibility** – the Contractor shall be fully responsible for the sub-contractor's work and its completion to the satisfaction of the Contractor and of the Administrator, but not for any technical design element provided by the sub-contractor which shall be warranted to the Employer directly by the sub-contractor.
- 5.4 **Nominated suppliers** – the Administrator shall nominate (under pc sums) the "nominated supplier" firms to supply special materials and/or goods at defined cost, for the Contractor to fix. The Contractor shall issue a contract of sale/order to the firm, stipulating delivery date, terms, liability for defects, and that the items supplied shall be to the satisfaction of Contractor and Administrator. If for valid reasons the Contractor objects to a firm, or the specialist refuses the order terms, the Administrator may nominate another firm.
- 5.5 **Protection from damage** – the Contractor shall protect adequately all the aforesaid specialists materials, goods, and sub-contractor's work, and ensure that they are free of defects and damage when installed and when handed over at completion.
- 5.6 **Employer's specialists** – the Employer may wish to execute work or supply items for the Contractor to fix. If this is defined in the specification, the Contractor shall permit this except for the purpose of compliance with the Construction (Design & Management) Regulations 1994. If it is not so defined, the Contractor shall be asked for his agreement, this not to be withheld unreasonably.

## SECTION 6: Financial Matters

- 6.1 **Payment** – payments shall be made to the Contractor only on the Administrator's certificates, as the work progresses, as the following clauses.
- 6.2 **Interim payments** – interim certificates for payment will be issued at monthly intervals unless otherwise agreed by both parties.
- 6.3 **Certificates** – the Contractor shall apply to the Administrator for each certificate 14 days before issue is due, supported by his statement of work done as clause 6.31. for checking by the Administrator – the following shall apply:

- 6.31 Valuation – the Contractor’s statement shall show in suitable detail his value of work done, including that by nominated sub-contractors and suppliers, also of materials and goods properly on site – if a QS is engaged by the Employer, he will do such valuations;
- 6.32 Amount – the amount certified shall be the approved gross value, including by nominated sub-contractors and suppliers, also allowable fluctuations approved by the Administrator (as in section 7), and materials and goods properly on site (but subject to clause 6.34 and only if adequately stored and protected) excluding premature deliveries, less the retention and amounts previously paid;
- 6.33 Issue, payment – certificates shall be issued to the Employer, also a copy to the Contractor – the Employer shall pay to the Contractor the amount certified within 14 days of receiving the certificate, subject to any deductions and set-offs due herein;
- 6.34 Materials and goods – the materials and goods when paid for under a certificate shall become the Employer’s property, but the Contractor is responsible for loss or damage to them – receipts of payment for materials and/or goods shall be produced to prove ownership, if required by the Administrator.
- 6.4 **Retention** – the Employer shall retain \*\*% of the gross valuation as shown on each certificate, and shall hold this in trust in a separate banking account clearly so defined as money due to the Contractor pending proper completion of the work – half such retention money shall be certified at practical completion, and the balance in the final certificate. \*\*
- 6.5 **Final account** – the Contractor shall submit, at or soon after practical completion, his final account showing the adjustments to the contract sum, and all information needed for the Administrator to approve and certify the appropriate amount – if a QS is engaged by the Employer, he may check or prepare the account.
- 6.6 **VAT** – the charge or recovery of VAT by or from the Employer or the Contractor shall be in addition to and separate from the contract sum, and in accordance with the relevant Acts of Parliament, and with the rules and regulations of Customs and Excise.
- 6.7 **Provisional and pc sums** – the Administrator shall direct the Contractor as to the use of provisional sums (ps) and prime cost (pc) sums (in clauses 5.3 and 5.4) defined as follows:
- 6.71 Provisional sums – are for provisional builders work – they are gross, include overheads and profit, and shall be adjusted at schedule or approved rates as defined in clause 7.2 “Variation cost”;
- 6.72 Prime cost sums – are for nominated sub-contractors work and/or for the supply only of materials and/or goods by nominated suppliers (for the Contractor to fix), to be net, at trade rates, including cash discounts of 2.5% for sub-contracts and 5% on items supplied only, these to be at net cost after all discounts (except the cash discount), and including all on-costs (packing, delivery to site).
- 6.8 **Payment – to nominated sub-contractors and suppliers** – the Administrator’s interim certificates will define amounts, and any balances shall be certified by the Administrator and paid by the Contractor to the firms before the final certificate is issued. The Administrator will advise the firms of payments certified, as follows:
- 6.81 To sub-contractors – the Contractor shall pay to each nominated sub-contractor within 17 days of receiving the copy certificate the amount certified, less retention, 2.5% cash discount (if paid within the 17 days), and set-offs, and amounts previously paid; the retention shall be paid when certified, on the above discount items. The Administrator may require proof of any payment by the Contractor; failing payment the sub-contractor may request the Administrator that the Employer pay him direct, who shall deduct such mounts and the relevant VAT from money due to the Contractor;
- 6.82 To suppliers – the Contractor shall check each supplier’s invoices as to accuracy, full discounts, that the items are acceptable, and shall refer extras and claims to the Administrator. The Contractor shall pay to the supplier the agreed invoice total in full within 30 days of the end of the month of delivery, less 5% cash discount (if so paid) – such amounts will be included in the next certificate, subject to proof of payment.

\*\* insert % figure (10%, 7.5% or 5%, according to the estimated costs of the work – the higher % for lower costs)

- 6.9 **Final certificate** – before the final certificate can be issued the Administrator shall certify all balances due to sub-contractors and suppliers, and the Contractor shall pay, and shall produce a statement list and the receipts to the Administrator to verify this. After proper completion of the work and defects (as clause 4.3 “Defects”), and the approval by the Administrator of the final account adjustments, the Administrator will issue the final certificate. This shall show the final total, less previous payments, and the balance due to the Contractor or due from the Contractor to the Employer as the case may be – after 14 days of receipt this balance shall be a debt payable by the party concerned.
- 6.91 Reservation – no certificate shall be taken as conclusive evidence that the work, materials, or goods to which it relates are in accordance with this contract.

## SECTION 7: Variations, Fluctuations

- 7.1 **Variations** – instructions for variations to the contract work (extra work, changes, or omissions) shall be issued only by the Administrator, stipulating how the variation is to be costed. No variation shall vitiate the contract.
- 7.2 **Variation cost** – the methods to be used to evaluate the variation cost, which is to be added to or deducted from the contract sum as appropriate, shall be as follows:
- 7.21 At prices in the priced specification/schedule of rates;
- 7.22 At rates to be approved by the Administrator before the work proceeds, where the work is not within the scope of such schedule but capable of measurement;
- 7.23 A quotation for the variation, to be approved by the Administrator before the work proceeds;
- 7.24 By daywork – this will only be approved by the Administrator, in writing, if the work cannot be assessed otherwise. The value shall be calculated at net cost and on-costs as Appendix 1, or as defined in the relevant RICS “Definition of prime cost of daywork”. Daywork vouchers detailing daily time and materials used in such work shall be sent to the Administrator within 7 days of it being done, for verification – failing such submission it may be disallowed.
- 7.3 **Fluctuations** – statutory charges – any change in the statutory charges which apply shall be allowable, and the following shall apply:
- 7.31 Statutory charges – the charges are the National contributions, levies, and tax payable by the Contractor in his capacity as an employer.
- 7.32 Adjustments – any changes in the types and/or rates of such charges shall be notified at the time by the Contractor to the Administrator, which is a condition of payment, and shall be taken into account – the Contractor shall submit to the Administrator a quantified claim statement and evidence, for approval. The net increase or decrease shall be paid to or allowed by the Contractor (without profit) – nominated sub-contractors and suppliers accounts shall include their amounts.
- 7.4 **\*Fluctuations** – labour and materials – any fluctuations in the scheduled rates and prices of labour and materials shall be allowable, and the following rules shall apply:
- 7.41 Basic rates and prices – the Contractor’s schedule of basic wage rates and prices of materials for fluctuations shall be attached to and form part of this contract (as clause 1.4 “Schedule of rates”);
- 7.42 Adjustments – fluctuations in such rates and prices during the contract work shall be noticed at the time by the Contractor to the Administrator, which is a condition of payment, and these shall be taken into account – the Contractor shall submit to the Administrator quantified claim statements and evidence, for approval. The net increase or decrease shall be paid to or allowed by the Contractor (without profit) – daywork does not qualify – nominated sub-contractors and suppliers accounts shall include their fluctuations.

\* delete clause 7.4-7.42 unless fluctuations are to apply

## SECTION 8: Insurance

**Note:** 8.1 and 8.2 (including sub-clauses) are alternatives – delete those not required.

- 8.1 Insurance (new work)** – the Contractor shall, in the joint names of Employer and Contractor, insure the works, also all unfixed materials and goods on site, against loss or damage by the perils listed in clause 8.61 “perils”. The Contractor shall maintain insurance against those risks, including any necessary demolition and removal of debris, for the full reinstatement value concerned, to be reviewed periodically, plus \*% for fees. \*
- 8.11 Proof of insurance** – if the Contractor does not prove such insurance by receipts, the Employer may so insure and deduct the premiums from money due to the Contractor.
- 8.12 Employer to insure** – should the Employer wish to insure for these risks, the Contractor shall permit this, and the wording of clause 8.1 must be amended accordingly\*\*, and the contract adjusted for the premium reductions. \*\*
- 8.2 Insurance (existing buildings)** – all existing structures, contents, also the works, and unfixed materials and goods (except Contractor's sheds, plant, tools and equipment) shall be at the sole risk of the Employer as to loss or damage by the perils listed in clause 8.61 “perils”. The Employer shall maintain insurance against those risks, including any necessary demolition and removal of debris, for the full reinstatement value concerned, to be reviewed periodically, plus \*% for fees. \*
- 8.21 Proof of insurance** – if the Employer does not prove such insurances by receipts, the Contractor may so insure on the Employer's behalf, and recover the premiums under the contract.
- 8.3 Notice of damage, reinstatement** – the Contractor shall give immediate notice of any such loss or of damage, to both Employer and Administrator. If it is just and equitable to do so, this contract may be determined, at the opinion of either party by notice (by recorded delivery) within 28 days of the event, subject to a request within 7 days of receipt thereof for arbitration on this matter. Upon such determination subject to a request within 7 days of receipt thereof for arbitration on this matter. Upon such determination clause 9.25 “payment” shall apply as to payment;
- 8.31 Reinstatement** – upon acceptance of any insurance claim, the Contractor shall forthwith re-build or repair properly the works, replace materials and goods lost and/or damaged, and clear all debris. Payment of the monies so received shall be made (less the fees) to the Contractor only under certificates by the Administrator. Any such work or replacement under clause 8.2, including disposal of debris, shall be deemed a variation.
- 8.4 Insurance** – injury or death, property – except for any claim on the Client arising out of the Client's breach of duties imposed by The Construction (Design & Management) Regulations 1994 the Contractor shall be liable for and shall indemnify the Employer against all liability, loss, claim, expenses, or proceedings whatsoever, whether arising by common law or statute, in respect of death or injury to persons, or of damage to property, real or personal, arising out of, or in the course of, or caused by the works;
- 8.41 Contractor/sub-contractors to insure** – the Contractor shall maintain, and shall cause any sub-contractor to maintain, insurance against the liability for the aforesaid risks;
- 8.42 Damage to property** – the Contractor shall also maintain, in the joint names of Employer and Contractor, insurance in respect of any liability, loss, expense, claim or proceedings whatsoever which the Employer may incur by reason of damage to any property (other than the works), arising out of, or in the course of, or caused by the works, including (but not limited to) subsidence, vibration, weakening or removal of support, collapse, ingress of water, alteration of ground water levels.
- 8.5 Period of insurance** – the aforementioned insurances shall be maintained until the works have been taken over by the Employer (at practical completion), and thence sufficient insurance until any defects period work is completed.

\* Insert % for professional fees    \*\* change “Contractor” to “Employer” and delete clause 8.1.1, retain clause 8.2.1

- 8.6 Policies, perils** – policies and premium receipts must be kept available for inspection on request;
- 8.61 Perils – the perils/risks to be insured against are fire, storm, tempest, lightning, explosion, flood, bursting or overflowing water tanks apparatus or pipes, earthquake, aircraft or other aerial devices or articles dropped therefrom, riot or civil commotion;
- 8.62 Radiation etc – the insurance cover shall exclude loss or damage by radiation, radio-activity, hazards from nuclear sources, pressure waves from aircraft or other devices at high speed.

**Note:** if insurance cannot be obtained against certain of the above stated risks, the parties can arrange a compromise at pre-contract stage, and the clauses shall be amended to suit.

## **SECTION 9: Determination, Claims**

- 9.1 Default by Contractor** – the Contractor shall be considered in default if he:
- 9.11 Fails to proceed with the work with reasonable diligence, or wholly suspends the works before completion without reasonable cause;
- 9.12 Refuses or neglects persistently to replace defective works, materials, or goods, or to comply with instructions given to him, fails to comply with the Health & Safety Plan by the Administrator, if applicable, and continues to default for 14 clear days after receiving notice in writing from the Administrator by recorded delivery
- 9.13 Commits any act of bankruptcy, or, being a company, has a receiver appointed, or enters into liquidation (except for the purposes of re-construction of the company).
- 9.14 Determination by Employer – in any such default the Employer may determine (but not unreasonably or vexatiously) by recorded delivery the employment of the Contractor under this contract, and the following rules shall then apply:
- 9.15 Another Contractor – the Contractor shall at once give up the works, and the Employer may employ and pay another Contractor to complete the works, who may take over the site and use the temporary buildings, scaffolding, plant, materials, and goods thereon for the works; the Employer shall immediately register this change with the Health & Safety Executive and appoint a new Principal Contractor.
- 9.16 Payment for work and materials – the Employer shall only be liable for the Contractor's and sub-contractor's work properly executed, for materials and goods on site required for the completion of the works, also for any hire of plant retained, and no other sums whatsoever, but such payment, if any, shall not be made until after completion of the works.
- 9.17 Loss or damage – the Contractor shall allow or pay to the Employer any direct loss and/or damage caused by the determination, as certified by the Administrator when verified after the contract works are completed – the amount shall be a debt payable to the Employer so far as it exceeds any sum due to the Contractor.
- 9.2 Default by Employer** – the Employer shall be considered in default if he:
- 9.21 Fails to pay the amount due on any certificate issued by the Administrator and after seven clear days from receipt by the Employer of a written notice sent to him (by recorded delivery) by the Contractor pointing out that the period for payment has expired;
- 9.22 Delays the work for four weeks or longer at his insistence, except by previous agreement;
- 9.23 Commits any act of bankruptcy, or, being a company, has a receiver appointed, or enters into liquidation (except for the purposes of re-construction of the company).
- 9.24 Determination by Contractor – in any such default the Contractor may determine (but not unreasonably or vexatiously) by registered post his employment under this contract, and the following rules shall then apply:
- 9.25 Payment – the Contractor shall then be entitled to payment for the value of work executed, and for materials and goods properly purchased for the works, and the cost of removal of plant and equipment;

- 9.26 Loss or damage – the Employer shall also pay to the Contractor any direct loss and/or damage caused to the Contractor and/or any nominated Sub-contractor as warranted by the determination, and the Employer shall notify the sub-contractors accordingly.
- 9.27 Continuation of works – If the Employer commits an act of bankruptcy, appoints a receiver or assigns his interest in the works and the Contractor agrees to carry on, then the Contractor shall cease works until such time as he receives a copy of any amended notices which are to be sent to the Health & Safety Executive by the new Client.
- 9.3 **Rights** – the right of determination shall be without prejudice to any other rights or remedies which either party may possess.
- 9.4 **Claims** – any claim by the Contractor and/or a nominated Sub-contractor for direct loss and/or expense arising under this contract may be submitted in writing, but not later than four weeks from the date of practical completion (with relevant contract clause numbers, reasons, and financial details) to the Administrator to consider any amount warranted.

**SECTION 10: Disputes, Arbitration**

- 10.1 **Claims, disputes** – any claim, dispute or other query relating to this contract shall be put to the Administrator in writing by either party in the first instance for his decision. If not resolved they shall proceed to Arbitration.
- 10.2 **Arbitration** – any such unresolved dispute relative to this contract arising between the parties shall, upon written application of either party hereto, be referred to a person agreed between the parties as Arbitrator, or failing such agreement within 14 days, then the President of the Chartered Institute of Building to appoint an Arbitrator from the CIOB's panel of Arbitrators. The Arbitrator's decision shall be final and binding on both parties.
- 10.3 If applicable, the Contractor acting as Principal Contractor for Health & Safety shall deliver to the Planning Supervisor all information required under the CDM regulations including all such information as shall be reasonably required by the Planning Supervisor in writing before the completion of the contract but not later than seven working days before the date set for practical completion including any information that may be required from any sub-contractors either nominated or directly employed. Failure to do so shall be a reason for refusing practical completion.

The Planning Supervisor shall be .....  
 .....(insert full name and address)

The Principal Contractor shall be .....  
 .....(insert full name and address)

**SECTION 11: Disputes, Adjudication**

**The whole of Section 11 may be omitted if either party to the Contract do not wish to go to arbitration in the event of a dispute.**

In compliance with the provisions of the Housing Grant, Construction and Regeneration Act 1996, part II (Adjudication)

- 11.1 **Intention** – notwithstanding the provisions of Clause 10 above (Arbitration) any party to the Contract may give notice at any time of intention to refer any dispute arising under the contract to Adjudication.
- 11.2 **General Principles**
- 11.21 The object of adjudication is to reach a fair, rapid and inexpensive decision upon a dispute arising under the Contract and this purpose shall be interpreted accordingly.
- 11.22 The Adjudicator shall act impartially.
- 11.23 The Adjudicator may take the initiative in ascertaining the facts and the law. He may use his own knowledge and experience. The adjudication shall be neither an arbitration nor an expert determination.

- 11.24 The Adjudicator's decision shall be binding until the dispute is finally determined by arbitration or by agreement.
- 11.25 The Parties shall implement the Adjudicator's decision without delay whether or not the dispute is to be referred to arbitration.
- 11.3 The Notice Of Adjudication**
- 11.31 The Notice of Adjudication shall be given to every other party to the contract.
- 11.32 The Notice of Adjudication shall set out briefly;
- (a) the nature and a brief description of the dispute and the Parties involved;
  - (b) details of where and when the dispute has arisen;
  - (c) the nature of the redress which is sought; and
  - (d) the names and addresses of the Parties to the contract (including, where appropriate, the addresses which the Parties have specified for the giving of notices).
- 11.4 Appointment of the Adjudicator**
- 11.41 Unless the Parties have agreed upon the identity of the Adjudicator or if the agreed person is or becomes unable or unwilling to act, the referring Party shall within two days of issuing the Notice of Adjudication, make a written request to the President of the Chartered Institute of Building to nominate an Adjudicator from the CIOB's panel of Adjudicators.
- 11.5 Conduct of the Adjudication**
- 11.51 The referring Party shall send to the Adjudicator within seven days of the Notice of Adjudication (or as soon thereafter as the Adjudicator is appointed) and copy to the other Party, a statement of its case including a copy of the Notice, the Contract, details of the circumstances giving rise to the dispute, the reason why it is entitled to the redress sought and the evidence upon which it relies.
- 11.52 The date of referral shall be the date on which the Adjudicator receives this statement of case.
- 11.53 The Adjudicator shall reach his decision within 28 days of the date of referral, or such longer period as is agreed by the Parties after the dispute has been referred. The Adjudicator may extend the period of 28 days by up to 14 days with the consent of the referring Party.
- 11.54 The Adjudicator shall have complete discretion as to how to conduct the adjudication and shall establish the procedure and timetable. He shall not be required to observe any rule of evidence, procedure or otherwise, of any court or tribunal. Without prejudice to the generality of these powers, he may:
- (i) direct the production of a written defence, further argument or counter argument
  - (ii) direct the production of documents or request the attendance of people whom he considers could assist
  - (iii) visit the site
  - (iv) meet and question the Parties and their representatives
  - (v) meet the Parties separately
  - (vi) limit the length or time for submission of any statement, defence or argument
  - (vii) proceed with the adjudication and reach a decision even if a Party fails to comply with a request or direction of the Adjudicator
  - (viii) issue such other directions as he considers to be appropriate.
- 11.55 The Parties shall comply with any request or direction of the Adjudicator in relation to the adjudication.
- 11.56 The Adjudicator may obtain legal or technical advice, provided that he has had first notified the Parties of his intention. He shall provide the Parties with copies of any written advice received.

- 11.57 The Adjudicator shall decide the matters set out in the Notice of Adjudication together with any other matters which the Parties and Adjudicator agree shall be within the scope of the Adjudication.
- 11.58 The Adjudicator shall determine the rights and obligations of the Parties in accordance with the law of Contract.
- 11.59 Any Party may at any time ask that additional Parties shall be joined in the Adjudication. Joinder of additional Parties shall be subject to the agreement of the Adjudicator and the existing and additional Parties. An additional Party shall have the same rights and obligations as the other Parties, unless otherwise agreed by the Adjudicator and the Parties.

#### **11.6 The Decision of the Adjudicator**

- 11.61 The Adjudicator may withhold delivery of his Decision until his fees and expenses have been paid.
- 11.62 He shall be required to give reasons if one or more of the Parties to the dispute so require.
- 11.63 Where the Adjudication fails, for any reason, to reach his Decision in accordance with Clause 11.53
- (a) any of the Parties to the dispute may serve a fresh Notice under clause 11.3 and shall request an Adjudicator to act in accordance with all other provisions herein.
  - (b) if requested by the new Adjudicator and insofar as it is reasonably practicable, the Parties shall supply him with copies of all documents which they had made available to the previous Adjudicator.
- 11.64 The Adjudicator may open up, review and revise any certificate, decision, direction, instruction, notice, opinion, requirement, or valuation made in relation to the contract.
- 11.65 The Adjudicator may in any Decision direct the payment of such simple or compound interest from such dates, at such rates and with such rests, as he considers appropriate.
- 11.66 The Parties shall bear their own costs and expenses incurred in the Adjudication.
- 11.67 The Parties shall be jointly and severally liable for the Adjudicator's fees and expenses, including those of any legal or technical advisor appointed under clause 11.56, but the Adjudicator may direct a Party to pay all or part of the fees and expenses. If he makes no such direction, the Parties shall pay them in equal shares. The Party requesting the Adjudication shall be liable for the Adjudicator's fees and expenses if the Adjudication does not proceed.
- 11.68 The Parties shall be entitled to the redress set out in the Decision and to seek summary enforcement, whether or not the dispute is to be finally determined by arbitration. No issue decided by the Adjudicator may subsequently be referred for decision by another Adjudicator unless so agreed by the Parties.
- 11.69 In the event that the dispute is referred to arbitration, the Adjudicator's decision shall not inhibit the right of the Arbitrator to determine the Parties' rights or obligations as if no Adjudication had taken place.

#### **11.7 Miscellaneous Provisions**

- 11.71 Unless the Parties agree, the Adjudicator shall not be appointed Arbitrator in any subsequent Arbitration between the Parties under the Contract. No Party may call the Adjudicator as a witness in any legal proceeding or Arbitration concerning the subject matter of Adjudication.
- 11.72 Unless otherwise agreed by the Parties, any Party to the dispute may employ any representative(s) he wishes to assist him. However, no Party may be represented by more than one person at an oral Hearing without the consent of the Adjudicator.
- 11.73 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith, and any employee or agent of the Adjudicator is similarly protected from liability.
- 11.74 The Adjudicator is appointed to determine the dispute or disputes between the Parties and his Decision may not be relied upon by third parties, to whom he shall owe no duty of care.
- 11.75 The Adjudicator procedure shall be interpreted in accordance with the law of England and Wales.

**Note:** In these conditions, reference to male applies equally to female.

## Appendix 1

Percentage on-costs for daywork (sub-clause 7.24):

Labour      %      materials      %      plant      %      transport      %

### List of clauses etc.

| <i>Clause</i>  | <i>Page</i> | <i>Clause</i>                           | <i>Page</i> |
|--|-------------|---|-------------|
| Headnote – scope   | 1           | 2.32 Damages                            | 5           |
| <b>Contract</b> – date   | 2           | 2.4 Further particulars                 |             |
| Employer + address   |             | 2.5 Authorities                         |             |
| Contractor + address   |             | 2.51 Notices                            |             |
| <i>Item</i> <b>Recital</b>   | 2           |   |             |
| R1 Works – type  |             | <b>3. Workmanship, plant</b>            | 6           |
| At – site address  |             | 3.1 Materials, workmanship              |             |
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| R2 Estimated sum   |             | 3.12 Vouchers                           |             |
| R3 Contract documents  |             | 3.2 Person in charge, staff             |             |
| <b>Agreement</b>   | 2           | 3.21 Suitable workers                   |             |
| A1 Contractor to do work   |             | 3.22 Reservation                        |             |
| A2 Contract sum  |             | 3.3 Protection, lighting etc.           |             |
| A3 Exclusive of VAT  | 3           | 3.31 Lighting, power, water             |             |
| A4 Administrator – death or<br>Ceasing to act                      |             | 3.4 Samples, tests                      |             |
| A4a Planning Supervisor  |             | 3.41 Tests                              |             |
| A5 Abide by conditions   |             | 3.5 Plant                               |             |
| Signatures   |             | 3.6 Opening up of work                  |             |
| <b>Note:</b> re Deed, reading contract,<br>also law and definition |             | 3.7 Emergency work                      |             |
| <b>Contract conditions</b>   | 4           | <b>4. Progress, defects</b>             | 7           |
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| 1.32 Notices, charges  |             | 4.4 Delay, extension of time            |             |
| 1.4 Schedule of rates, extras                                      |             | 4.41 Extension of time                  |             |
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| 1.5 Contract documents   |             | 4.6 (Not used)                          |             |
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| 1.54 Differences in documents                                      |             | 5.1 Sub-letting                         |             |
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| <i>Clause</i>                      |                                      | <i>Page</i> | <i>Clause</i>                     |                                | <i>Page</i> |
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| 6.34                               | Materials and goods                  | 9           | 9.3                               | Rights                         | 13          |
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| 6.5                                | Final account                        |             |                                   |                                |             |
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| 6.81                               | To sub-contractors                   |             | 10.23                             | Decision final                 |             |
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| 7.21                               | At prices                            |             | 11.21                             | Object                         |             |
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| 7.23                               | A quotation                          |             | 11.23                             | Fact and the law               |             |
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# Small Works Contract

**Supplementary Conditions** to permit bills of quantities and a Quantity Surveyor to act.

The following modifications shall be deemed made to the Contract and shall apply:

**headnote (scope)** : delete in line 2 the words "but not"

**R1** add –

and to bills of quantities prepared

by: ..... *Quantity Surveyor*

of: ..... *(address)*

**R1** include "bills of quantities" after "schedule of works".

**R3** include "bills of quantities" after "schedule of works".

**A4** include "or the Quantity Surveyor" after "Administrator"

## Contract Conditions

**Note:** in all clauses concerned "bills of quantities" is deemed to be included after "schedule of works".

**1.4 Schedule of rates, extras** – change heading to "Priced bills, extras" – in line 2 after "Administrator" change to "fully priced bills of quantities upon which –".

**6.3 Certificates** – delete in lines 1 and 2 the words "the Contractor – Administrator". Insert "the Administrator will issue the certificates –".

**6.31 valuation** – the Quantity Surveyor will do the valuations which shall be issued to the Administrator also a copy to the Contractor.

**6.33 issue, payment** – in line 1 add "and the Quantity Surveyor" after "Contractor".

**6.5 Final account** – re-word to – the Contractor shall supply all the information required, and the Quantity Surveyor shall prepare the final account valuation – he shall negotiate its agreement with the Contractor and sent it to the Administrator for final approval.

**7.2 Variation cost** – add (para) – note – all measuring shall be done by the Quantity Surveyor, the Contractor being invited to be present.

**7.32 adjustments** – in line 3 change "Administrator" to "Quantity Surveyor".

**7.42 adjustments** – in line 3 change "Administrator" to "Quantity Surveyor".

Appendix 1 – R.1 – add "Quantity Surveyor + address"

A.4 – add "or Quantity Surveyor" after "Administrator"

1.4 – delete "schedule of rates". Add "priced Bill".

Signed by the Employer

..... in the presence of *(witness)*

.....

Signed by the Contractor

..... in the presence of *(witness)*

.....

SAMPLE

## Small Works Contract



### List of revisions

- First issued December 1981
- Revised (minor) FAS to ASI  
November 1989
- February 1994
- Revised (by ASI) August 2000
- Revised (minor by CIOB) May 2003
- Revised (minor by CIOB) July 2004

### Agreement and Contract Conditions

between:

.....  
Employer

and

.....  
Contractor

dated

December 2004 Edition

this form is issued by:

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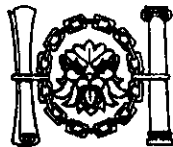
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