

Measured Term Contract 2011

For use in Scotland

Amendment 1

Issued July 2015 (Effective from 6 April 2015)

CDM Regulations

Clause number and heading	Action
Fourth Recital	Delete the existing text and insert 'Not used'
Article 4 heading	Delete 'CDM Co-ordinator' and insert 'Principal Designer'
Article 4	Delete 'CDM Co-ordinator' and insert 'Principal Designer'; Delete 'or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations' and insert 'or such other person as the Employer at any time appoints to fulfil that role either in relation to all Orders or for specific Orders'
Article 5	Delete 'or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(2) of those regulations' and insert 'or such other contractor as the Employer at any time appoints to fulfil that role either in relation to all Orders or for specific Orders'
Footnote [2]	Delete the existing text and insert the following: 'Insert the name of the Principal Designer in Article 4 if the Contract Administrator is not to fulfil that role and that of the Principal Contractor in Article 5 if that is to be a person other than the Contractor. Under the CDM Regulations 2015, regardless of whether or not a project is notifiable, there is a requirement to appoint a principal designer and a principal contractor in all cases where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time. For these purposes, the term 'contractor' is broadly defined by the regulations and treats the Contractor's sub-contractors as separate contractors.'
Clause 1.1	Delete the definition of 'CDM Co-ordinator'; 'CDM Regulations': delete '2007' and insert '2015'; 'Construction Phase Plan': delete the existing text and insert 'the plan referred to in regulation 2 of the CDM Regulations, including any updates and revisions.'; 'Principal Contractor': delete the existing text and insert 'the Contractor or such other contractor as is either named in Article 5 or appointed by the Employer in relation to any Order.'; After the definition of 'Principal Contractor', insert the following new definition: 'Principal Designer: the Contract Administrator or such other person as is either named in Article 4 or appointed by the Employer in relation to any Order.'
Clause 2.1	After 'Construction Phase Plan', delete '(where applicable) and other' and insert 'and'
Clause 2.6	After 'commencement date', delete ^[18] and footnote [18]

Clause number and heading	Action
Clause 3-9 heading	Delete 'Undertakings to comply' and insert 'CDM Regulations'
Clause 3-9	<p>Delete the existing text and footnote [19] and insert the following:</p> <p>'Each Party undertakes to the other that in relation to each Order and Site he will duly comply with applicable CDM Regulations. In particular but without limitation:</p> <ul style="list-style-type: none"> .1 the Employer shall in each case ensure that the Principal Designer carries out his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out his duties under those regulations; .2 the Contractor shall comply with regulations 8 and 15 and, where he is the Principal Contractor, with regulations 12 to 14;^[18] .3 whether or not the Contractor is the Principal Contractor, compliance by the Contractor with his duties under the regulations, including any such directions as are referred to in regulation 15(3), shall be at no cost to the Employer and shall not entitle the Contractor to an extension of time; .4 if the Employer appoints any other person as the Principal Designer or Principal Contractor either in relation to all Orders or for specific Orders, the Employer shall immediately upon that appointment notify the Contractor with details of the new appointee.'
Footnote [18]	<p>Delete the existing text and insert the following:</p> <p>'Where the Employer is a domestic client, as defined in regulation 2, the Principal Contractor may also be responsible for carrying out certain of the client's duties under regulations 4, 6 and 8.'</p>
Clause 3-10 heading	Delete 'Appointment of successors' and insert 'Replacement of Contract Administrator'
Clause 3-10-1	Renumber as 3-10
Clause 3-10-2	Delete the sub-clause number and text

Incorporation of the modifications

The modifications may readily be incorporated in one of two ways:

either by amending the contract document itself in accordance with this Amendment and executing it in its amended form, with each amendment initialled by or on behalf of each party

or by attaching this Amendment to the Contract; and, prior to execution, inserting the following further provision in the Articles with the next available number (i.e. normally as Article 9):

"Article [___]: Amendment 1: CDM Regulations – incorporation

This Agreement and the Conditions shall have effect as modified by the amendments set out in the attached Amendment 1: CDM Regulations."

(that Article in similar fashion being initialled on execution.)