

Minor Building Works Conditions

1 Definitions and interpretation

In these conditions:

Contract Documents means the Order, these conditions and the Specification

Contractor means the company, firm organisation appointed to carry out the Works

Contractor's Representative means the representative of the Contractor nominated under clause 5.2 or any replacement of such party approved under clause 5.2

Fee means the price shown on the Order which includes expenses and disbursements and which represents the University's maximum liability under the Order

Order means the University's written order to carry out the Works

Specifications means the drawings and/or specifications provided by the University to the Contractor describing the Works including any variations to these documents agreed in writing

Statutory Requirements means any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the Works or performance of any obligations under this contract and includes any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to the Works and a reference to any 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

University means the Chancellor, Masters and Scholars of the University of Oxford

University's Representative means a named representative of the University who will be the principal point of contact for the Contractor

Works means the works described in the Order.

2 Carrying out the Works

2.1 This contract shall take effect from either the date on which the Contractor sends a letter or email to the University agreeing to carry out the Works or the date on which the Contractor enters the site, for the purposes of executing the Order, whichever is the earlier.

2.2 The Contractor shall carry out and complete the Works diligently, in a good and workmanlike manner and in compliance with the Contract Documents and any relevant Statutory Requirements.

2.3 The quality of materials and goods and the standard of workmanship shall be to the reasonable satisfaction of the University's Representative and, subject to that and to the Specification, all materials and goods shall be new and appropriate for their use and all materials, goods and workmanship shall be of a satisfactory quality.

- 2.4 If the Contract requires the Contractor to provide or procure any design, the Contractor warrants that all reasonable professional skill and care has been or will be exercised in carrying out such design.
- 2.5 The Contractor shall notify the University's Representative immediately in writing of any conflict between any Statutory Requirement and the Contract Documents or between any Statutory Requirement and any instructions of the University's Representative and, provided this written notice has been given and the Works are otherwise carried out in accordance with the requirements of this contract, the Contractor shall not be liable for any failure of the Works to comply with the Statutory Requirements.
- 2.6 The University's Representative may give instructions to the Contractor with regard to the carrying out of the Works and the Contractor shall immediately comply with all such instructions as are in conformity with the Contractor's obligations under this contract (save only that oral instructions shall be confirmed in writing by the University's Representative within 2 days). In the event that the Contractor does not comply with any valid instruction from the University's Representative, the University may employ other persons to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the University in connection with such employment and the University may deduct such costs from the Fee as necessary or recover them from the Contractor as a debt.
- 2.7 The University's Representative may issue instructions requiring a change in the Works or the order or period in which they are to be carried out.
- 2.8 The Contractor shall commence the Works on a date to be agreed with the University's Representative and shall take all reasonable steps to avoid or mitigate any delays and to carryout the Works within a period of time agreed with the University's Representative.
- 2.9 The Contractor shall notify the University's Representative when in his opinion the Works have reached completion. For the purposes of this contract, "completion" and "complete" means complete in all respects and free from apparent defects. Within 7 days of receipt of such notification the University's Representative may notify the Contractor of any works that remain to be completed or any defects that require rectification before the Works can be treated as being complete. If the University's Representative does not serve a notice in accordance with this clause 2.9, then completion of the Works shall be deemed to have occurred on the date of receipt by the University's Representative of the Contractor's notice. Where the University's Representative serves a notice stating that further works are required or defects have to be rectified before the Works can be treated as being complete, then the Contractor shall notify the University's Representative when in his opinion such works have been undertaken and the Works have reached completion and the provisions of this clause 2.9 shall apply to the issue of any such further notice.
- 2.10 If any defects, shrinkages or other faults appear in the Works within 3 months after completion due to the failure of the Contractor to comply with its obligations under this contract (**Defects**), the University's Representative shall without unnecessary delay notify the Contractor who shall, unless the University's Representative otherwise instructs, remedy such Defects at the Contractor's own cost and within an appropriate timescale. Where the University's Representative otherwise instructs, the University shall be entitled to employ others to remedy such Defects and to recover the reasonable costs incurred by the University in doing so from the Contractor (either by way of deduction from any sum due to the Contractor or as a debt). The University's Representative shall certify the date when in his opinion the Contractor's obligation under this clause 2.10 have been discharged.

- 2.11 The Contractor shall maintain adequate contractor's all-risks and public liability insurance for the purposes of this contract and shall provide the University with a copy of the policy or policies on request.
- 2.12 Whenever the Contractor's staff work at University premises, the Contractor shall ensure their compliance with all relevant Statutory Requirements (including, without limitation, the Health and Safety at Work etc Act 1974 and subordinate legislation made under the 1974 Act) and with the University's fire and health and safety policies and procedures including any site code of conduct or specific site rules brought to the Contractor's attention. The Contractor shall be responsible for any loss, damage or injury occasioned to or by the Contractor's staff as a result of their failure so to comply and shall indemnify the University against any expense, liability, loss, claim, or proceedings whatsoever which accrues to the University as a result of any non-compliance.
- 2.13 The Contractor shall be liable for and shall indemnify the University against any expense, liability, loss, claim, or proceedings whatsoever in respect of personal injury to or the death of any person and/ or in respect of any loss, injury or damage whatsoever to any property real or personal arising out of or in the course of or caused by the carrying out of the Works except to the extent that the same is due to any act or neglect of the University or any person for whom the University is responsible.
- 2.14 The University may ,without assigning any reason to, exclude from its premises any person, including any individual employed or engaged by the Contractor, if it considers in its absolute discretion that such individual should be so excluded.

3 Payment

- 3.1 The University shall pay to the Contractor the Fee following the completion of the Works in accordance with the terms of this contract. The Fee is exclusive of VAT and the University shall pay the amount of VAT properly chargeable on it.
- 3.2 The Contractor may submit an invoice for any amount due to the Contractor under this contract. The final date for payment by the University of any amount due to the Contractor shall be the last day of the month following that in which the University receives from the Contractor a valid tax invoice for the amount due. If the University improperly fails to pay the amount properly invoiced by the final date for payment, the Contractor may charge interest on the balance outstanding, accruing from day to day at the rate of 4% per annum above the Barclays Bank plc Base Rate from time to time in force and compounded annually as at 31 December.
- 3.3 The Fee shall not be adjusted for any change in the cost of labour, materials, plant and other resources employed in carrying out the Works.

4 Confidentiality

Except insofar as such matters are properly in, or come into, the public domain, the Contractor shall keep secret and confidential all information which the Contractor receives about the research and affairs of the University and shall not disclose any such information to any person unless otherwise expressly provided for by this contract or unless ordered to do so by a court of competent jurisdiction.

5 Relationship between the parties

- 5.1 The relationship of the Contractor to the University will be that of independent contractor. The Contractor will not hold itself out as the agent of the University, and will not have any authority to act on behalf of the University, to conclude any contracts or incur any obligation or liability on behalf of or binding upon the University, or to sign any document on the University's behalf. The Contractor will not use the name or marks of the University in any press release or product advertising, or for any other commercial purpose, without the prior written consent of the University.
- 5.2 Before commencing the Works on site, the Contractor shall nominate a person in charge as Contractor's Representative. The Contractor's Representative shall remain in charge of the Works throughout the construction period. The Contractor shall not (save in circumstances which render it unavoidable) remove the person in charge without the consent of the University's Representative (which consent shall not be unreasonably withheld or delayed) and any vacancy shall be filled as soon as practicable. Any instructions issued to the Contractor's Representative by the University's Representative shall be deemed to have been issued to the Contractor.
- 5.3 The Contractor may not sub-contract, assign, transfer, mortgage or part with any of its rights, duties or obligations under this contract without prior written consent from the University.
- 5.4 The parties do not intend that by virtue of the Contracts (Rights of Third Parties) Act 1999 any of the terms of this contract should be enforceable by a person who is not a party to it.

6 Termination

- 6.1 The University may terminate the Contractor's employment under this contract with immediate effect (but without prejudice to any other rights or remedies the University may have) if the Contractor:
- (a) commits a material breach of the terms of this contract which it fails to remedy within seven (7) days after receipt of written notice from the University specifying the breach and requesting a remedy;
 - (b) persistently neglects, fails or refuses for any reason to carry out the Works in accordance with this contract;
 - (c) acts in any manner materially adverse to the interests of the University in providing or purporting to provide the Works; or
 - (d) is or becomes insolvent or has a petition presented for its winding-up, or passes a resolution for voluntary winding-up otherwise than for the purposes of a bona fide amalgamation or reconstruction, or compounds with its creditors, or has a receiver or administrator or administrative receiver appointed of all or any part of its assets, or enters into any arrangements with creditors, or takes or suffers any similar action.
 - (e) commits an offence under the Bribery Act 2010 in connection with the procurement or implementation of the Works.
- 6.2 If, prior to completion, the Works are suspended for 28 days or more as a result of the instructions of the University's Representative or as a result of a delay for which the University is responsible (unless this is caused by the negligence or other default of the Contractor) the Contractor may give the University notice specifying the events causing the suspension of

work and, if the events continue for a further seven days, the Contractor may terminate the Contractor's employment under this contract by further notice.

6.3 If prior to completion, the carrying out of the Works is suspended for 28 days or more as a result of factors outside the control and responsibility of either party which prevent or materially hinder the performance of this contract, then either party may give the other a notice in writing that unless circumstances enable the Works to be resumed within 7 days of the date of service of the notice, the party serving the notice may terminate the Contractor's employment under this contract by a further notice.

6.4 On the termination of this contract (however arising):

(a) the Contractor shall deliver up to the University all documents, papers, data, equipment, materials of any sort, identity cards and keys which were furnished by the University to the Contractor, or which were prepared by or on behalf of the Contractor for the purposes of the contract;

(b) the Contractor shall remove all temporary buildings, plant, tools, equipment and building materials from the University's premises without delay and thereafter shall not be permitted to have further access to University premises without the prior written consent of the University's Representative; and

(c) any other persons employed by the University to carry out the Works may make use of any temporary buildings, plant, tools, equipment and building materials which are left on the site by the Contractor for more than 7 days after the date of termination (title to which will pass to and vest in the University on the expiry of such 7 day period).

6.5 If the Contractor's employment under this contract is terminated, then subject to any cross-claim under clause 6.6, the University shall be liable to the Contractor for a due proportion of the Fee calculated in accordance with the terms of this contract, for the Works properly completed as at the date of termination, but no further. The University shall not be liable to the Contractor for any other compensation or damages arising out of any termination of this contract (however arising).

6.6 If the University employs other persons to carry out the Works following any termination of the Contractor's employment under clause 6.1 and the total of the cost to the University of completing the Works, any direct loss or damage caused to the University for which the Contractor is liable and the payments made by the University to the Contractor on account of the Fee, exceeds the total Fee for the whole of the Works, the Contractor shall be liable to the University for the difference.

6.7 If the Contractor's employment is terminated under clause 6.1, no further payment shall be due to the Contractor until the University has procured the completion of the Works and had the opportunity to prepare an account for the purposes of clause 6.6, or until the University decides not to complete the Works.

7 Dispute resolution

7.1 The parties may agree to refer to mediation any dispute or difference arising under this contract.

- 7.2 If a dispute or difference arises under this contract which either party wishes to refer to adjudication, Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998 shall apply subject to the following:
- (a) the Adjudicator shall have power to determine more than one dispute at the same time; and if requested to do so by either party shall determine any matter raised by such party in the nature of set off, abatement or counterclaim at the same time as he determines any other matter referred to him; and
 - (b) at the same time as he gives his decision, the Adjudicator shall give reasons for his decision in writing.

8 Miscellaneous

- 8.1 The Contractor grants to the University an irrevocable, non-exclusive, royalty-free licence to use and reproduce any of the drawings, details, specifications and calculations which have been or are prepared by or on behalf of the Contractor relating to the Works and the designs contained in them (**Documents**) for any purpose connected with the Works (other than by the reproduction of such designs in any extension to the Works) and to grant sub-licences in the terms of this licence but the copyright in the Documents shall remain vested in the Contractor. The Contractor will not be liable for any use of the Documents for any purposes other than those for which the same are or were prepared. The University shall on written request be entitled to be supplied by the Contractor with copies of the Documents.
- 8.2 Clause headings are inserted in this contract for convenience only and shall not be taken into account in the interpretation of this contract.
- 8.3 Notices and consents to be given under this contract must be in writing and sent to the address of the recipient set out in this contract or any other address in the United Kingdom which the recipient may designate by notice given in accordance with this clause. Any notice may be delivered personally, by first-class pre-paid letter or by email or fax and will be deemed to have been served if by hand when delivered, if by first-class post 48 hours after posting and if by fax or email when despatched with error-free transmission.
- 8.4 The Contract Documents together constitute the entire contract between the parties relating to the Works and replace any previous agreement between the parties for the execution of the Works. Any variation to any of the Contract Documents shall be in writing and signed by authorised signatories for both parties.
- 8.5 If any provision of this contract is found to be to any extent void, voidable, or unenforceable, such provision shall, to that extent, be severable and the parties will be bound by the remainder of this contract.
- 8.6 No omission by the University to enforce any provision of this contract and no allowance of time shall be construed as a waiver of any of its rights under this contract.
- 8.7 No waiver by the University of any breach of any provision of this contract by the Contractor shall be deemed a waiver of any subsequent breach and nor shall it affect the other terms of this contract.
- 8.8 This contract is subject to English Law. The English courts shall have jurisdiction to deal with any dispute under or in connection with this contract.

8.9 The University and Contractor agree that the duration of the work to be carried out under this contract is less than 45 days and that the provisions of the Construction Act 2009 do not apply.