

General Conditions of Contract

for Services or Minor Works

**1 Definitions**

1.1 The term 'Employer' shall mean the Trustees of the Royal Air Force Museum, a charity registered in England and Wales. Registered charity number 244708

1.2 The term 'Contractor' shall mean [insert name], registration number [insert], registered at [insert address]

1.3 The 'Works' shall mean all work to be undertaken, and materials to be supplied, by the Contractor in performance of the Contract.

1.4 'The Site' shall mean the location where the Works are to be performed.

1.5 The term 'Purchase Order' shall mean the Employer's Purchase Order which specifies that these conditions apply to it.

1.6 'The Contract' shall mean the contract between the Employer and the Contractor consisting of the Purchase Order, these conditions and any other documents (or parts thereof) specified in the Purchase Order. Should there be any inconsistency between the documents comprising the contract, they shall have precedence in the order herein listed in this clause 1.6.

1.7 'As specified' shall mean as specified in the contract documents or drawings.

1.8 'As approved' shall mean as approved in writing by the Employer's representative. Such approval does not relieve the contractor of any of his contractual responsibilities, e.g. for design and or suitability.

1.9 "working day" shall mean Monday to Friday with the exception of a Bank Holiday in England.

**2** **Inclusions in contract**

The Contract includes for all materials, labour, plant, equipment, transport, handling of materials and plant, tools and appliances and all other things necessary for the Works. Materials and/or plant will only be supplied and/or loaned by the employer where specifically stated in the Purchase Order or other contract documents provided by the employer.

**3** **Inspection of site**

The Contractor is deemed to have understood the nature and extent of the Works, and to have visited the Site and shall make no claim founded on his failure to do so. The Employer shall, on request of the Contractor, grant such access as may be reasonable for this purpose.

**4 Manner of carrying out the works**

4.1 The Contractor shall make no delivery nor commence work on Site before obtaining the Employer's consent.

4.2 Access to and possession of the Site shall not be exclusive to theContractor but only such as shall enable him to carry out the Works concurrently with the execution of work by others.

4.3 The Employer shall have the power at any time during the progress of the Works to order in writing:

(a) The removal from the Site of any materials which in the opinion of the Employer (which shall be final and binding) are not in accordance with the Contract.

(b) The substitution of proper and suitable materials.

(c) The removal and proper re-execution (notwithstanding any previous test thereof or interim payment therefor) of any work which, in respect of material or workmanship, is not in the opinion of the Employer (which shall be final and binding) in accordance with the Contract.

4.4 No work shall be laid in excavation and no work shall be covered or hidden until approved in writing by the Employer.

**5 Completion date**

The date of completion of the Works or, in the case of a service being performed at regular intervals, the period of the Contract, shall be that specified in the Employer's Purchase Order unless otherwise agreed between the Employer and the Contractor.

**6 Terms of payment**

Unless otherwise stated in the Contract, payment will be made within 30 days of receipt and agreement of invoices, submitted monthly, for work completed to the satisfaction of the Employer.

Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

**A retention of 5% shall be applied during the course of the works with 2.5% released upon satisfactory completion. Final 2.5% retention shall be released upon completion of defects after a period of 6 months has elapsed.**

**7 Contractor's superintendence**

The Contractor shall have a competent supervisor on the Site and any instructions given to the said supervisor (written or oral) shall be deemed to be given to the Contractor.

**8 Assignment and sub-letting**

8.1 The Contractor shall not assign or sub-let any portion of the Contract without the prior written consent of the Employer. No sub-letting shall relieve the Contractor from the responsibility of the Contract or from active supervision of the Works during their progress.

8.2 Where the Employer has consented to the placing of sub-contracts, copies of each sub-order shall be sent by the Contractor to the Employer immediately it is issued.

8.3 Where the Employer has consented to the placing of sub-contracts the Contractor shall include in its Subcontracts provisions which impose obligations on Subcontractors that are consistent with the obligations imposed on Contractor in the provisions of this Contract as those terms are applicable to the Work being performed by the Subcontractor. Should there be a conflict between this Contract and the sub-contract; the terms in this Contract shall prevail.

**9 Variation in contract price**

Save as provided for under Sub-Clause 10.2 the contract price shall be a firm price unless otherwise agreed between the parties when the Purchase Order is placed.

**10 Variation of the works**

10.1 The Contractor shall not vary any of the Works or substitute any materials, except as directed in writing by the Employer.

10.2 The Employer reserves the right by notice in writing to modify the quality or quantity of the Works and any alteration to the Contract price arising by reason of such modification shall be agreed between the parties.

**11** **Payments to site labour**

11.1 The Contractor and his Sub-Contractor (if any) shall pay their respective employees on the Site the rates of wages, and observe hours and conditions of working, recognised by the National Agreements for the industries or trades applicable to the Contractor's work. In the absence of such Agreements the Contractor and his Sub-Contractors shall observe rates and conditions approved by the Employer.

11.2 Bonus and other payments outside those defined in 11.1 above shall only be made in accordance with principles agreed with the Employer.

11.3 Hours of working, including overtime, shall be agreed with the Employer.

11.4 Before the placing of the Contract, the Contractor shall have obtained for himself and his Sub-Contractors (if any) the approval of the Employer for the arrangements covered in 11.1, 11.2 and 11.3 above. The Contractor and his Sub-Contractors shall not introduce or commence to negotiate any changes in these arrangements without the written consent of the Employer. Notice shall be given to the Employer of the implementation of any National Awards affecting these arrangements.

11.5 The Contractor shall not offer employment to any person employed by the Employer or by other contractors employed by the Employer whilst work under the Contract is taking place.

**12 Statutory duties and safety**

12.1 The Works shall be carried out with the proper regard to safety and the Contractor shall observe and conform to all statutory enactments and regulations and any by-laws and/or regulations of local or other authorities applicable to the Works or generally to the Site where the Works are carried out, the cost of supplying and/or doing allthings required for the purpose being deemed to be included in the Contractprice. Any additional expenses reasonably incurred by the Contractor in conforming with any such statutory enactments, by-laws and regulations made subsequently to the Contractor's tender shall be added to the Contract price, provided that such additional expenses were not ascertainable at the date of tender.

12.2 The Contractor shall also observe through his staff and work people the Site Safety and Security Regulations (available on request) applicable to the Site where the Works are carried out. The Employer shall have the right to require the Contractor immediately on receipt of notice in writing to remove any of his employees on the Site who has:

(a) failed to comply with the Site Safety and Security Regulations, or

(b) in the opinion of the Employer misconducted himself, or been negligent or incompetent.

12.3 The Contractor shall be responsible for the suitability and safety of the equipment used by him and no equipment shall be used which may be unsuitable, unsafe or liable to cause damage. Without lessening the absolute responsibility of the Contractor in regard to such equipment the Employer shall have the right to inspect such equipment and if in the Employer's opinion (which shall be final and binding) it is unsuitable it shall not be used on the Works, no extra time or payment being allowed to the Contractor for replacement.

**13** **Free issue materials**

Where the Employer for the purposes of the contract issues materials free of charge to the Contractor such materials shall be and remain the property of the Employer. The Contractor shall maintain all such materials in good order and conditionand shall use such materials solely in connection with the Contract. Any surplus materials shall be disposed of at the Employer's discretion. Waste of such materials arising from bad workmanship or negligence of the Contractor shall be made good at the Contractor's expense. Without prejudice to any other of the rights of the Employer, the Contractor shall deliver up such materials whether further processed or not to the Employer on demand.

**13A Information Provided by the Employer for Use by Others:**

 Neither the RAF Museum, nor its Trustees or employees will be liable for any loss, damage or inconvenience arising from the use of the information contained on drawings or documents unless stated otherwise in writing. The Contractor should check any information before acting or relying upon it.

**14** **Indemnity**

The Contractor shall take every practicable precaution not to damage or injure any property or persons. The Contractor shall satisfy all claims founded on any such damage or injury which arise out of or in consequence of any operations under the Contract whether such claims are made by the Employer or by a third party against the Contractor or against the Employer, and the Contractor shall indemnify the Employer against all actions, demands, damages, costs, charges and expenses arising in connection therewith, provided, however, that nothing in this condition shall render the Contractor liable for any injury or damage resulting from any negligent act or omission of the Employer, his servants or agents, or any other contractor employed by the Employer and the Employer shall indemnify the Contractor against all demands and expenses arising in connection with any such damage or injury.

**15** **Insurances**

15.1 The Contractor shall have in force and shall require any Sub-Contractor to have in force:

(a) Employer's Liability Insurance and

1. Public Liability Insurance for such sum and range of cover as the Contractor deems to be appropriate but not less than £10,000,000 for any one accident unless otherwise agreed by the Employer in writing.
2. Contractor’s all risk insurance against loss or damage to the Works and Things for which the contractor is responsible under the terms of the contract for the full reinstatement thereof (including transit and off-site risks) plus 15%.

All such insurances shall be extended to indemnify the Employer against any claim for which the Contractor or Sub-Contractor may be legally liable.

15.2 The Policy of Insurance shall be shown to the Employer whenever he requests together with satisfactory evidence of payment of premiums.

15.3 The Employer shall maintain Employer’s Liability and Public Liability Insurance in respect of his own liabilities.

**16** **Notification procedure**

The Contractor shall give immediate notice in the event of any accident or damage likely to form the subject of a claim under the Employer's insurance and shall give all the information and assistance in respect thereof that the Employer's insurers may require, and shall not negotiate, pay, settle, admit or repudiate any claim without their written consent, and shall permit the insurers to take proceedings in the name of the Contractor to recover compensation or secure an indemnity from any third party in respect of any of the matters covered by the said insurance.

**17** **Patent rights**

The Contractor shall indemnify the Employer against all claims for royalties, damages, costs and expenses claimed or incurred as a result of the embodiment of any patented invention or design in the Works or the Contract. If, however, the subject of the patented invention or design is embodied in the Works or the Contract on the express instructions of the Employer, then the responsibility thereof shall rest with the Employer.

**18** **Contractor's conditions**

No conditions submitted or referred to by the Contractor when tendering shall form part of the Contract unless otherwise agreed to in writing by the Employer.

**19 Secrecy**

19.1 No photographs of any of the Employer’s equipment, installations or property shall be taken without the Employer's prior consent in writing. The Contractor shall keep secret and shall not divulge to any third party (except Sub-Contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-contract) all information given by the Employer in connection with the Contract or which becomes known to the Contractor through his performance of such work under the Contract.

19.2 The Contractor shall not mention the Employer's name in connection with the Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without the Employer's prior consent in writing

**20 Clearance of site on completion**

On completion of the Works the Contractor shall remove his plant, equipment and unused materials and shall clear away from the Site all rubbish arising out of the Works.

**21** **Loan of Employer's plant and equipment**

(The inclusion of this condition does not imply that the Employer assumes any obligations to provide 'Loaned Plant', which means plant or equipment owned by the Employer and used by or on behalf of the Contractor by agreement.)

21.1 Where loaned plant is operated by a servant of the Employer:

(a) The Operator shall not become the servant of the Contractor but shall carry out with the Loaned Plant such work as he may be directed to do by the Contractor.

(b) The Contractor shall be liable for any damage to the loaned plant caused by misdirection or misuse of it due to negligence on the part of the Contractor, his servants or agents.

(c) The Employer shall be liable for any damage to the Loaned Plant caused by a defect in or faulty operation of the plant.

21.2 Where Loaned Plant is operated by a servant of the Contractor or an independent Contractor, the Contractor shall be liable for all damage to the Loaned Plant unless he can show that it was caused by a defect in the plant at the commencement of the loan and he shall be liable for any loss (including loss by theft) of the said plant.

21.3 The Employer shall have the right to withdraw Loaned Plant at any time and shall be under no liability whatever in connection with the Employer failing to lend plant at any time.

21.4 The Contractor shall satisfy himself that any Loaned Plant is suitablefor the purpose intended.

**22** **Contractor's default**

22.1 If the Contractor fails to carry out promptly any of the Employer's instructions, and fails within 5 working days of notice by the Employer drawing attention to such failure to take such steps as reasonably satisfy the Employer, the Employer may, without prejudice to any other of hisrights, carry out Works at the risk and expense of the Contractor,

22.2 If the Contractor commits a breach of the Contract and fails within 5 working days of notice by the Employer to take such steps as reasonably satisfy the Employer to rectify such breach, the Employer may, without prejudice to any other of his rights, terminate the Contract forthwith by notice to the Contractor. Thereupon, without prejudice to any other of his rights, the Employer may himself complete the Works or have it completed by a third party, using for that purpose (or making a fair and proper payment thereof) all materials, plant and equipment on the Site belonging to the Contractor, and the Employer shall not be liable to make any further payment to the Contractor until the Works have been completed in accordance with the requirements of the Contract, and shall be entitled to deduct from the Contract price (ascertained in accordance with the terms and conditions of the contract) any additional cost incurred by the Employer. If the total cost to the Employer exceeds the said Contract price, the difference shall be recoverable by the Employer from Contractor.

**23 Insolvency and bankruptcy**

If the Contractor becomes insolvent or bankrupt or (being a Company) makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for thepurposes of amalgamation or reconstruction) the Employer may, without prejudice to any other of his rights, terminate the Contract forthwith by noticeto the Contractor or any person in whom the Contract may have become vested.

**24** **Construction of contract**

The construction, validity and performance of the Contract shall be governed by the law of England.

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