

CONTRACT DATA

Part one – Data provided by the *Employer*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

Statements given in all
contracts
1 General

- The *conditions of contract* are the core clauses and the clauses for main Option A, dispute resolution Option W2 and secondary Options X2, X5, X7, X15, X16, Y(UK)2, Y(UK)3, Z Option clauses of the NEC3 Engineering and Construction Contract April 2013.

- The *works* are
The phased internal refurbishment of the Employers Pharmaceutical Production Centre zones 5-8 to relocate purification suite and process solution suite.

- The *Employer* is
Name... Porton Biopharma Ltd
Address. . Porton Down, Salisbury, SP4 OJG
.....

- The *Project Manager* is
Name... Porton Biopharma Ltd.
Address. . Porton Down, Salisbury, SP4 OJG
.....

- The *Supervisor* is
Name... Porton Biopharma Ltd.
Address. . Porton Down, Salisbury, SP4 OJG
.....

- The *Adjudicator* is
The *Adjudicator* will be appointed on the application of either party by a named *Adjudicator* (The *Adjudicator nominating body* provided below will nominate the *Adjudicator*)

- The *Works Information* is in
PBL Electronic Tendering Portal “Bravo” - Folder 18 and supporting information Folders 1 - 17
.....

- The *Site Information* is in
..... PBL Electronic Tendering Portal “Bravo” - Folder 19.
.....
.....

The *boundaries of the site* are . Shown on Drawing:
150083 PPC 5-8 Reconfiguration – PBL Proposed Site Set Up Arrangement Rev 2.
.....

	<ul style="list-style-type: none">The <i>language of this contract</i> is . . . EnglishThe <i>law of the contract</i> is the law of . . . England and WalesThe <i>period for reply</i> is . . . 2 WeeksThe <i>Adjudicator nominating body</i> is President of the Royal Institution of Chartered SurveyorsThe <i>tribunal</i> is . . . ArbitrationThe following matters will be included in the Risk RegisterSee separate Schedule						
3 Time	<ul style="list-style-type: none">The <i>starting date</i> is . . . 04/01/2021The <i>access dates</i> are <table><tr><td>Part of the Site</td><td>Date</td></tr><tr><td>Section 1 PPC Zone 7 - 8.</td><td>04/01/2021</td></tr><tr><td>Section 2 PPC Zone 5 - 6</td><td>28/02/2022</td></tr></table>	Part of the Site	Date	Section 1 PPC Zone 7 - 8.	04/01/2021	Section 2 PPC Zone 5 - 6	28/02/2022
Part of the Site	Date						
Section 1 PPC Zone 7 - 8.	04/01/2021						
Section 2 PPC Zone 5 - 6	28/02/2022						
4 Testing and Defects	<ul style="list-style-type: none">The <i>Contractor</i> submits revised programmes at intervals no longer than 4 weeks.The <i>defects date</i> is . 52 . weeks after each Section of the <i>works</i>.The <i>defect correction period</i> is 2 Weeks except that.<ul style="list-style-type: none">The <i>defect correction period</i> is 24 hours for defects that the Project Manager or Employer considers will impact:<ul style="list-style-type: none">The GMP state of the facility, equipment or utilitiesThe employers ability to validate any part of the facility, equipment or utilities, orthe defect will require a future shutdown of equipment or utilities and time is critical						
5 Payment	<ul style="list-style-type: none">The <i>currency of this contract</i> is the . . . Pound Sterling (£)The <i>assessment interval</i> is . calendar monthly and according to a list of dates to be agreed by the Contractor and the Project Manager.The <i>interest rate</i> is . . 8 % per annum above the base lending rate of theBank of England						

6 Compensation events	<ul style="list-style-type: none">• The place where weather is to be recorded is The Site• The <i>weather measurements</i> to be recorded for each calendar month are<ul style="list-style-type: none">• the cumulative rainfall (mm)• the number of days with rainfall more than 5 mm• the number of days with minimum air temperature less than 0 degrees Celsius• the number of days with snow lying at 10:00. hours GMT• and these measurements: <p>.....</p> <p>.....</p> <p>.....</p> <ul style="list-style-type: none">• The <i>weather measurements</i> are supplied by . The Met Office.• The <i>weather data</i> are the records of past <i>weather measurements</i> for each calendar month which were recorded at . . . Boscombe Down Weather Station. . . . and which are available from The Met Office. <p>.....</p> <p>.....</p> <p>.....</p>
	<p>Where no recorded data are available</p> <p>Assumed values for the ten year return <i>weather data</i> for each <i>weather measurement</i> for each calendar month are</p> <p>Not applicable, data available as above</p> <p>.....</p>
8 Risks and insurance	<ul style="list-style-type: none">• The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the <i>works</i>, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) caused by activity in connection with this contract for any one event is <p>..... £10,000,000.</p> <ul style="list-style-type: none">• The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is <p>..... £10,000,000.</p>
Optional statements	<p>If the <i>tribunal</i> is arbitration</p> <ul style="list-style-type: none">• The <i>arbitration procedure</i> is. the latest version of the Royal Institution of Chartered Surveyors Arbitration Procedure in force when the arbitrator is appointed.• The place where arbitration is to be held is London• The person or organisation who will choose an arbitrator

- if the Parties cannot agree a choice or
- if the *arbitration procedure* does not state who selects an arbitrator is
Royal Institution of Chartered Surveyors..

If the *Employer* has decided the *completion date* for the whole of the works

- The *completion date* for the whole of the works is . . . **16/09/2022**

If the *Employer* is not willing to take over the works before the Completion Date

The *Employer* is willing to take over the works before the Completion Date

If no programme is identified in part two of the Contract Data

- The *Contractor* is to submit a first programme for acceptance within. . . **2** . . .
. . weeks of the Contract Date.

If the *Employer* has identified work which is to meet a stated condition by a key date

- The *key dates* and *conditions* to be met are

<i>condition</i> to be met	<i>key date</i>
1. . . . N/A N/A
2.
3.

Y(UK)2 is used and the final date for payment is not 14 days after the date when payment is due

- The period for payment is . . . **30 Days**
.

If there are additional *Employer's* risks

- These are additional *Employer's* risks

If the *Employer* is to provide Plant and Materials

- The insurance against loss of or damage to the *works*, Plant and Materials is to include cover for Plant and Materials provided by the *Employer* for an amount of
. **£800,000**

If the *Employer* is to provide any of the insurances stated in the Insurance Table

- The *Employer* provides these insurances from the Insurance Table
.
- The *Contractor* provides these additional insurances

The Contractor shall maintain professional indemnity insurance cover with a reputable insurance company with a limit of indemnity of not less than **£5,000,000** in respect of each and every claim to cover any claims made against the Contractor in relation to his design of the Works and, provided that such insurance is available in the market, the Contractor shall continue to maintain such insurance with that insurer or another reputable insurer throughout the duration of the Works and for a

period of 12 years following the Defects Date.

If for any period such insurance is not available, the Contractor shall forthwith so inform the Employer in writing, of any new insurance arrangements which the Contractor (acting reasonably) deems necessary.

Any such insurance is referred to above are placed with insurers to be approved by the Employer, and the Contractor send to the Project Manager for deposit with the Employer the policy or policies and the premium receipts therefore.

Option X2 is used

Option X5 is used

- The *completion date* for each section of the works is

<i>section</i>	<i>description</i>	<i>completion date</i>
1	Section 1 PPC Zone 7 - 8.	10/09/2021

Options X5 and X7 are used together

- £5,000 per week for initial 5 weeks and thereafter £10k per week up to a capped value of £75,000

Option X15 is used

With the exception off the following items that must be in accordance with the Works Information and performance criteria stated therein.

- Cold Rooms
- WFI Storage Tank

Option X16 is used

- The *retention free amount* is Nil
- The *retention percentage* is 5%

Option Y(UK)2 is used

Option Y(UK)3 is used

- term person or organisation
.....None.....None.....
.....
.....
.....

If Option Z is used

- The additional conditions of contract are

The additional conditions of contract are
Z1: Amendments to the core clauses of Option A Priced Contract
with
Activity Schedule.

Identified and defined terms

- Clause 11.2(2) Amend the clause

Delete the second bullet point and insert
“corrected notified Defects which in the opinion of the PM will impact:

- using the works,
- Others from doing their work
- The GMP state of the facility, equipment or utilities
- The employers ability to validate any part of the facility, equipment or utilities, or
- the defect will require a future shutdown of equipment or utilities impacting the GMP state of the facility.

- Insert Clause 11.2(31)

The Facility refers to the Employers operations including the PPC Production Centre as a whole including the existing areas, operations and utilities as well as the areas refurbished as part of the Contractors Works.

Subcontracting

- Clause 26.2 – Amend the clause

Insert the following paragraph

“A reason for not accepting the Subcontractor includes that they have previously been removed from the Employers site for Health and safety or Security non-conformances.

Assessing the amount due

- *Clause 50 – Insert the following additional clauses:*

“50.6 The O&M manuals for each section of the project shall be submitted to the Project Manager for acceptance four weeks prior to the Completion date for that section shown on the accepted programme. The Project Manager shall within two weeks review the submitted O&M manuals and reply to the Contractor his acceptance or detail any further information required. The Contractor shall then resubmit the O&M manuals within two weeks enclosing the additional information as requested.”

“If either no O&M manual or resubmitted manual containing the additional information requested from the Project manager is not submitted at the Completion date shown on the accepted programme, 10% of the value of the relevant section shall be retained from the assessment of the amount due until the Contractor has submitted the O&M manuals to the approval of the Project Manager.”

Z2: Assignment

The Contractor shall not, without the written consent of the Employer, assign this Contract. In the event of transfer by the Employer of this freehold or of a grant by the Employer of a leasehold interest in the whole of the premises comprising the Works, the Employer may at any time after Completion of the Works, assign to any such transferee or lessee, the right to bring proceedings in the name of the Employer (whether by arbitration or litigation) to enforce any of the terms of this contract made for the benefit of the Employer hereunder. The assignee shall be stopped from disputing any enforceable agreements reached between the Employer and the Contractor and which arise out of and relate to this Contract (whether or not they are or appear to be a derogation from the right assigned) and made prior to the date of any assignment. The maximum number of occasions this Contract can be assigned is two, subject to any reasonable objections from The Contractor’.

Z3: Site Rules and Regulations

The Contractor shall ensure that all its staff shall comply with all the Employer’s site rules and regulations when visiting or carrying out work at the Employer’s premises and shall comply with all safety and security policies and procedures.

The Contractor shall note that smoking or vaping is strictly prohibited other than in a designated external area in the Employer’s site.

Photographs must not be taken of the site by the contractor. These regulations are rigidly enforced and any breach of this policy will involve the offender being removed from the site.

Z4: Publicity

The Contractor shall not issue any press release or other publicity materials or make any representation in respect of the existence of this Agreement or the subject matter thereof without the prior written consent of the Employer. However, this restriction shall not apply to announcements or disclosures required by law except that in such event the parties shall co-ordinate to the extent possible with respect to the wording of any such announcement.

Z5: Collateral Warranties

Upon entering into any subcontract with a subcontractor having a material design responsibility, the Contractor procures that the relevant subcontractor enters into a collateral warranty in the form set out in the Works Information. The collateral warranty is provided to the Employer within 28 days of the execution of the subcontract. The list of subcontractors having a material design responsibility will be agreed between the Employer and Contractor.

Z6: Cash Flow

The Contractor shall expand the Activity Schedule to show a cash flow forecast of the Price for Works Done to Date at each assessment date to cover the duration of the Whole of the Works and aligned to the Accepted Programme.

Forecasts shall be revised quarterly, or as requested by the Project Manager and will subtotal individually the Employers Financial Year position at the end of March for each year.

Z7: Defects Date / Retention Linked to each Sections of the Works

Z7.1 If X5 is selected each reference and clause relevant to the Defects Date applies as the case may be, to either the whole of the works or any section of the works.

Z7.2 If X5 and X16 is selected each reference and clause relevant to Retention applies as the case may be, to either the whole of the works or any section of the works.

Z8: Employer's online collaboration tool

Pursuant to core clause 13.1 of this contract, each instruction, certificate, submission, proposal, record, acceptance, notification, reply and other communication which this contract requires shall be communicated between the Employer, the Contractor, the Project Manager and the Supervisor using the Employer's online collaboration tool Aconex. The Employer may require Others to use Aconex for the purpose of cooperation and communication with the Contractor.

The Employer shall provide Aconex at no direct cost to the Contractor. The Employer shall provide one training session of Aconex to the contractor with free generic training available from Aconex direct.

During any interruption in operation of Aconex, any communications required by this contract may be sent by email or post always provided that copies are also communicated via Aconex as soon as reasonably practicable.

The use of Aconex will be supported and pre-empted with discussion (phone call/face to face/workshops). As with core clause 1, the intent of using Aconex is to support a culture of efficient and referable collaboration of information and correspondence.

On Completion of the Works the Contractor may be granted permission to download all necessary data contained on the Aconex system for the purposes of

post-contract administration and the keeping of required records at no cost to the Contractor

Z9: The Public Contracts Regulations 2015

(1) The Employer may terminate the Contractor's obligation to Provide the Works if any of the provisions of paragraph 73(1) of The Public Contracts Regulations 2015 apply.

If the Employer terminates under the provisions of paragraph 73(1)(b) of the Public Contracts Regulations 2015 as a result of information not disclosed by the Contractor at the Contract Date, the procedures and amounts due on termination are the same as if the Contractor has substantially failed to comply with his obligations.

If the Employer otherwise terminates under the provisions of paragraph 73(1) of the Public Contracts Regulations 2015, the procedures and amounts due on termination are the same as if the Parties had been released under the law from further performance of the whole of this contract.

(2) The Contractor does not appoint a Subcontractor or supplier if there are compulsory grounds for excluding the Subcontractor or supplier under regulation 57 of the Public Contracts Regulations 2015.

(3) The Contractor includes in any subcontract awarded by him provisions requiring that

- payment due to the Subcontractor or supplier under the subcontract is made no later than 30 days after receipt of a valid and undisputed invoice, unless this contract requires the Contractor to make earlier payment to the Subcontractor or supplier,*
- invoices for payment submitted by the Subcontractor or supplier are considered and verified by the Contractor in a timely fashion,*
- undue delay in considering and verifying invoices is not sufficient justification for failing to regard an invoice as valid and undisputed and*
- any contract awarded by the Subcontractor or supplier for work included in this contract includes provisions to the same effect as these provisions.*

Z10: Building Information Modelling (BIM) provisions

A BIM Model has been developed and will be made available for the Contractor to use, with the following constraint:

- The Employer issues the BIM for use by the Contractor and his Sub-Contractors for the purposes of this Project.*
- If any ambiguity or inconsistency exists between the BIM and other information forming the WI the Contractor will be deemed to have allowed within the Prices for the scope described within the other Works Information and not the BIM. The Project Manager will instruct the resolution of any ambiguity or inconsistency with a Compensation Event issued accordingly should the Scope within the BIM prevail.*
- The previous designer's BIM Execution Plan is included for information only.*

- *The Employer requires monthly issue of the Contractor's current working and federated model for PBL information.*
- *Where appropriate the contractor is encouraged to make full use of the model with regard to contract communication (E.g. RFIs/EWNs etc).*
- *Clause 21 "The Contractor's Design" requires drawings/documents (native and PDF) but where appropriate should be augmented with model information.*
- *The Contractor is required to issue an as-built model back to the Employer at completion.*

Z11 Option Clause X15 Limitation of the Contractors liability for his design to reasonable skill and care.

Option Clause X15 shall not apply to the Works stated as exceptions within Contract Data Part 1 Optional Clause X15.

Z12 Pandemic Event

Add a new clause 11.2 (31):

"A Pandemic Event means:

i) any pandemic (including, but not limited to, the COVID-19 coronavirus outbreak and/or any mutation thereof and any other outbreak of an infectious human disease),

and

ii) any measures, recommendations, regulations and legislation not in force at the Contract Date. and issued by the government and/or public authorities in relation to any pandemic.

and

iii) any consequences of any pandemic measures identified in 11.2(31) ii) which are outside the reasonable control and or mitigation by the Contractor, which affects the works including without limitation the Contractor being unable to reasonably access the Site, delay in or non-delivery of any materials required for the works or the Contractor being unable to reasonably adequately resource the works."

Add a new clause 60.1 (20):

"A Pandemic Event."

Add a new clause 63.15:

"Notwithstanding any other provision in this contract, any increase to the Prices as a result of a compensation event of the type referred to in clause 60.1(20) shall be reduced by 50%."

Z13 Works Information Clarifications Section 2.3

Section 2.3 within the Works Information describes the interpretation and understanding agreed between the Employer and Contractor in relation to the stated scope described elsewhere within the Works Information.

Any Compensation Events will be assessed as though the Contractor has allowed within the Prices for the scope clarified within Section 2.3.