

MTC 2016

Measured Term Contract 2016

2016

MEASURED TERM CONTR

Agreement

This Agreement is made the 1ST SEPTEMBER 20 19

Between

The Employer GATEWAY HOUSING ASSOCIATION

(Company No. IP10433R)^[1]

of/whose registered office is at 409 - 413 MILE END ROAD

LONDON E3 4PB

And

The Contractor PA GROUP UK LTD

(Company No. 6257126)^[1]

of/whose registered office is at PINDEN END FARM, CANADIA

FARM ROAD, DARTFORD, KENT, DA2 8EA

[1] Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number. As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires maintenance and minor works to be carried out in:
- IN PROPERTIES OWNED / MANAGED BY
GATEWAY HOUSING ASSOCIATION
- _____ ('the Contract Area')
in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Fifth** whether any of Supplemental Provisions 1 to 6 apply is stated in the Contract Particulars;

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 12), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 13 and 14).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

MJE MANAGER

of GATEWAY HOUSING ASSOCIATION

or, if he ceases to be the Contract Administrator, such other person as the Employer nominates in accordance with clause 3.10 of the Conditions.

Article 4: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is the Contract Administrator

(or)^[2] N/A

of _____

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.

[2]

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.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor

(or)^[2] NA

of _____

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.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

Where Article 7 applies^[3], then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2016 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings^[3]

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

[3] If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars **must** state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" **must** be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

Contract Particulars

*Note: An asterisk * indicates text that is to be deleted as appropriate.*

1 Properties and description of the types of work
(First Recital)

- .1 List of properties in the Contract Area in respect of which Orders may be issued:

PROPERTIES OWNED / MANAGED BY
GATEWAY HOUSING ASSOCIATION

- .2 Description of the types of work for which Orders may be issued:^[4]

ASBESTOS REMOVAL AND ASSOCIATED WORKS
AS DETAILED IN THE TENDER DOCUMENTATION

[4] Where the National Schedule of Rates is to apply (see items 12.1 and 12.2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 12.2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

2 Supplemental Provisions^[5]
(Fifth Recital and Schedule)

(Where neither entry against one of Supplemental Provisions 1 to 6 below is deleted, that Supplemental Provision applies.)

Collaborative working

* Supplemental Provision 1
applies/~~does not apply~~

Health and safety

* Supplemental Provision 2
applies/~~does not apply~~

Cost savings and value improvements

* Supplemental Provision 3
applies/~~does not apply~~

Sustainable development and
environmental considerations

* Supplemental Provision 4
applies/~~does not apply~~

Performance Indicators and monitoring

* Supplemental Provision 5
applies/~~does not apply~~

Notification and negotiation of disputes

* Supplemental Provision 6
applies/~~does not apply~~

Where Supplemental Provision 6 applies,
the respective nominees of the Parties are

Employer's nominee

MYE MANAGER

Contractor's nominee

MATTHEW CLARKE

or such replacement as each Party may notify to
the other from time to time

3 Contract Period^[6]
(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be THREE year(s)/~~month~~
commencing on 1st SEPTEMBER 20 19

4 Arbitration
(Article 7)

*(If neither entry is deleted, Article 7 and
clauses 9.3 to 9.8 do not apply. If disputes
and differences are to be determined by
arbitration and not by legal proceedings, it
must be stated that Article 7 and clauses 9.3
to 9.8 apply.)^[7]*

* Article 7 and clauses 9.3 to 9.8 (Arbitration)
apply/~~do not apply~~

[5] Supplemental Provision 7 (Transparency) applies only where the Employer is a Local or Public Authority or other body to whom the Freedom of Information Act 2000 applies; Supplemental Provision 8 (The Public Contracts Regulations 2015) applies only where the Employer is a Local or Public Authority and this Contract is subject to the PC Regulations.

[6] The period is envisaged as normally being at least one year.

[7] On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].

5 **BIM Protocol**
(Clause 1.1)

BIM Protocol (where applicable)
(State title, edition, date or other identifiers
of the relevant documents.)

NOT APPLICABLE

6 **Orders – minimum and maximum value**
(Clause 2.4)

Minimum value of any one Order to be issued

£ TBC (words DEPENDENT ON WORKS REQUIRED)

Maximum value of any one Order to be issued

£ TBC (words DEPENDENT ON WORKS REQUIRED)

7 **Orders – value of work to be carried out**
(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

* £ 40,000.00 (words FORTY THOUSAND POUNDS)
per annum/

* £ 120,000.00 (words ONE HUNDRED AND TWENTY THOUSAND POUNDS)
for the Contract Period

8 **Orders – priority coding^[8]**
(Clause 2.6)

AJ PER ORDER ISSUED

[8] To be completed if the Employer requires; as an example the code might be:
'A': response time to be 4 hours;
'B': to be commenced within 2 days;
'C': to be commenced within 14 days;
'D': to be commenced as agreed.

9 Construction Industry Scheme (CIS)
(Clause 4.2)

The Employer at the commencement of the Contract Period

~~* is a 'contractor'~~

* is not a 'contractor'

for the purposes of the CIS

10 Payments
(Clauses 4.3, 4.4 and 4.5)

Estimated value of an Order above which
progress payments can be applied for
(If none is stated, it is £2,500.)

APPLICATION FOR PAYMENT
ON COMPLETION OF ORDER
£

Valuation Dates
(If no date is stated, the Valuation Date is
the last day of each month.)

The Valuation Date in each month is the
ON COMPLETION day of the month

11 Responsibility for measurement and valuation
(Clause 5.2)

(Unless one of the three options opposite is
selected and, if relevant, an estimated
value specified, the Contract Administrator
shall measure and value all Orders.)

- * The Contract Administrator shall measure and value all Orders/
- * ~~The Contract Administrator shall measure and value each Order with an estimated value of~~

£
or more; the Contractor shall measure and value all other Orders/

- * ~~The Contractor shall measure and value all Orders~~

12 Schedule of Rates
(Clauses 5.3, 5.6.1 and 5.6.2)

1. The Schedule of Rates is

- * the National Schedule of Rates/

* DOCUMENT C - PRICING MATRICES
(identify the Schedule of Rates to be used)

subject to adjustment of the rates listed in that Schedule by

- * the addition/
- * the deduction

of the **Adjustment Percentage**, which is * NOT APPLICABLE per cent/as

set out in the following document

2. Where the Schedule of Rates is the National Schedule of Rates the version(s) identified opposite are to apply^[9]

- * ~~National Schedule of Rates (Building Works)~~
- * ~~National Schedule of Rates (Access Audit)~~
- * ~~National Schedule of Rates (Electrical Services in Buildings)~~
- * ~~National Schedule of Rates (Mechanical Services in Buildings)~~
- * ~~National Schedule of Rates (Painting and Decorating)~~
- * ~~National Schedule of Rates (Highways Maintenance)~~
- * ~~National Housing Maintenance Schedule~~

[9] Delete all versions that do not apply. See also footnote [4].

.3 Rates – Fluctuations

Clause 5.6.1
(Unless 'applies' is deleted, the
clause shall be deemed to apply.)

- * ~~applies/~~
- * does not apply

.4 Basis and dates of revision

(Not applicable where the National Schedule of Rates applies)

Where clause 5.6.1 applies, the
basis on which the Schedule of
Rates is to be revised under clause
5.6.1.2
(If no basis is identified the rates
remain fixed for all Orders.)

- * ~~is as follows/~~
- * is set out in the following document

DOCUMENT E2 -
SCHEDULE OF AMENDMENTS

Where clause 5.6.1 applies, the
dates as at which the Schedule of
Rates is to be revised are
(If no other date(s) are specified here
or in the document setting out the
basis for revision, the date shall be 1
August in each year.)

13

Daywork

(Clauses 5.4, 5.6.3 and 5.6.4)

.1 Valuation – percentage additions

Where not included in or annexed to the Schedule of Hourly Charges, the percentage additions to the invoice price of non-labour items are as follows:

Overheads and profit on Materials	<u>NOT APPLICABLE</u>	per cent
Overheads and profit on Plant, Services and Consumable Stores	<u>NOT APPLICABLE</u>	per cent
Overheads and profit on Sub-Contractors	<u>NOT APPLICABLE</u>	per cent

.2 Revision of Schedule of Hourly Charges

Clause 5.6.3
(Unless 'applies' is deleted, the
clause shall be deemed to apply.)

- * ~~applies/~~
- * does not apply

(Where clause 5.6.3 applies) the
annual revision date (if other than 1
August) is

NOT APPLICABLE

(Where clause 5.6.3 applies) the
basis of revision of hourly charges, if
not set out in the Schedule of Hourly
Charges^[10]

- * is as follows/
- * is set out in the following document

NOT APPLICABLE

[10] If clause 5.6.3 applies but the basis of revision is not set out in the Schedule of Hourly Charges or identified, clause 5.6.5 will apply.

14 Overtime work
(Clause 5.7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

NOT APPLICABLE per cent

15 Insurance
(Clauses 6.4.1, 6.7A, 6.7B, 6.8 and 6.11)

.1 Contractor's Public Liability insurance: injury to persons or property – the required level of cover is not less than

£ 5 MILLION
for any one occurrence or series of occurrences arising out of one event

.2 Percentage to cover professional fees
(If no other percentage is stated, it shall be 15 per cent.)

15 per cent

.3 Insurance of existing structures – clause 6.7A.1^[11]
(Unless otherwise stated, clause 6.7A.1 applies. If it is not to apply, state the reference number and date or other identifier of the replacement document(s).)

* applies/
* is replaced by the provisions of the following document(s)

(the 'Clause 6.7A.1 Replacement Schedule')

.4 Insurance of work or supply comprised in Orders – clause 6.7B
(If neither entry is deleted, the clause does not apply.)

* applies/
* ~~does not apply~~

.5 Where clause 6.7B applies and cover is to be provided under the Contractor's annual policy, the annual renewal date is
(as supplied by the Contractor)

1ST NOVEMBER

.6 Terrorism Cover – details of the required cover
(Unless otherwise stated, Pool Re Cover is required.)

are set out in the following document(s)

NOT REQUIRED

[11] As to choice of applicable insurance provisions, see the Measured Term Contract Guide. In respect of existing structures, it is vital that any prospective Employer who is not familiar with clause 6.7A and the alternative solutions under clause 6.7A.1 – in particular, any Employer who is a tenant – or an appropriate member of the Employer's professional team, should consult specialist insurance advisers prior to the tender stage. Any Employer who is a tenant should also consult his insuring landlord prior to that stage.

16 Break Provisions – Employer or Contractor
(Clause 7.1)

The period of notice, if less than 13 weeks,
is _____ weeks

17 Settlement of Disputes
(Clauses 9.2, 9.3 and 9.4.1)

Adjudication^[12]

The Adjudicator is _____

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[13]

(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

- * ~~Royal Institute of British Architects~~
- * The Royal Institution of Chartered Surveyors
- * ~~constructionadjudicators.com^[14]~~
- * ~~Association of Independent Construction Adjudicators^[15]~~
- * ~~Chartered Institute of Arbitrators~~

Arbitration^[16]

Appointor of Arbitrator (and of any replacement)^[17]

(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- President or a Vice-President:
- * ~~Royal Institute of British Architects~~
 - * The Royal Institution of Chartered Surveyors
 - * ~~Chartered Institute of Arbitrators~~

[12] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

[13] Delete all but one of the nominating bodies asterisked.

[14] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

[15] Association of Independent Construction Adjudicators is controlled by and acts as an agent of the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

[16] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9.3 to 9.8 (Arbitration) apply.

[17] Delete all but one of the bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

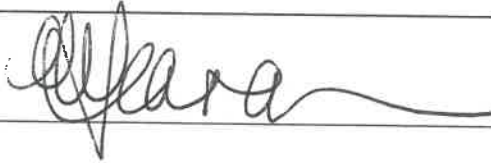
Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

As witness

the hands of the Parties
or their duly authorised representatives

Signed by or on behalf of
the Employer



in the presence of:

witness' signature



witness' name

EDWARD EHIOROBOD

witness' address

409-413 MILE END ROAD
E3 4PB

Signed by or on behalf of
the Contractor



in the presence of:

witness' signature



witness' name

4 RUGGLES CLOSE

witness' address

ME3 8RU