2016 Edition

DB/Scot

## Design and Build Contract for use in Scotland

978-1-909432-21-5

**SBC563** 



## **Contents**

	Agreement		Supply of Documents, Setting Out etc.
	Recitals	2.7	Contract Documents
	Articles	2.8	Construction information
1 2 3	Contractor's obligations Contract Sum Employer's Agent	2.9	Site boundaries  Discrepancies and Divergences
4 5	Employer's Requirements and Contractor's Proposals Principal Designer	2.10	Divergence in Employer's Requirements and definition of site boundary
6 7	Principal Contractor Adjudication	2.11 2.12	Preparation of Employer's Requirements Employer's Requirements – inadequacy
8 9 10	Arbitration Legal proceedings Registration	2.13 2.14 2.15	Notice of discrepancies etc. Discrepancies in documents Divergences from Statutory Requirements
		2.16	Emergency compliance with Statutory Requirements
Signing	Contract Particulars	2.17	Design Work – liabilities and limitation
	Conditions		Fees, Royalties and Patent Rights
Section 1	Definitions and Interpretation	2.18 2.19	Fees or charges legally demandable Patent rights and royalties – Contractor's indemnity
1.1	Definitions	2.20	Patent rights – Instructions
1.2	Interpretation  Reference to clauses etc.		Unfixed Materials and Goods – property, risk etc.
1.2 1.3 1.4	Agreement etc. to be read as a whole Headings, references to persons, legislation etc.	2.21 2.22	Materials and goods Not used
1.5 1.6 1.7	Reckoning periods of days Third Party Rights Notices and other communications		Adjustment of Completion Date
1.8 1.9	Effect of Final Statement Effect of payments other than payment of Final Statement	2.23 2.24 2.25	Related definitions and interpretation Notice by Contractor of delay to progress Fixing Completion Date
1.10 1.11	Consents and approvals Applicable law	2.26	Practical Completion, Lateness and
Section 2	Carrying out the Works		Liquidated Damages
	Contractor's Obligations	2.27 2.28	Practical completion Non-Completion Notice
2.1 2.2	General obligations Materials, goods and workmanship	2.29	Payment or allowance of liquidated damages  Partial Possession by Employer
	Possession	2.30	Contractor's consent
2.3 2.4	Date of Possession – progress Deferment of possession	2.31 2.32 2.33	Practical completion date Defects etc. – Relevant Part Insurance – Relevant Part
2.5 2.6	Early use by Employer Work not forming part of the Contract	2.34	Liquidated damages – Relevant Part
			Defects
		2.35 2.36	Schedules of defects and instructions Notice of Completion of Making Good

		4.13	Gross Valuation – Alternative B
	Contractor's Design Documents	4.14	Sums due as Interim Payments
2.37	As built Drowings	4.15	Off-site Materials and Goods
2.37	As-built Drawings Copyright and use		Retention
2.30	Copyright and use		Retention
Section 3	Control of the Works	4.16	Rules on treatment of Retention
		4.17	Retention Bond
	Access and Representatives	4.18	Retention – amounts and periods
3.1	Access for Employer's Agent		Loss and Expense
3.2	Site Manager		
	0.1.0	4.19	Matters materially affecting regular progress
	Sub-Contracting	4.20 4.21	Notification and ascertainment Relevant Matters
3.3	Consent to sub-contracting	4.21 4.22	Amounts ascertained – addition to Contract
3.4	Conditions of sub-contracting	4.22	Sum
0.1	Conditions of our contracting	4.23	Reservation of Contractor's rights and remedies
	Employer's Instructions		
	. ,	4.24	Final Statement and Final Payment
3.5	Compliance with instructions		
3.6	Non-compliance with instructions	Section 5	Changes
3.7	Instructions other than in writing		
3.8	Provisions empowering instructions		General
3.9	Instructions requiring Changes	5.4	D (1) 11 (10)
3.10 3.11	Postponement of work Instructions on Provisional Sums	5.1 5.2	Definition of Changes and provisional sum work
3.11	Inspection – tests	5.2	Valuation of Changes and provisional sum work Giving effect to Valuations, agreements etc.
3.13	Work not in accordance with the Contract	5.5	Olving effect to valuations, agreements etc.
3.14	Workmanship not in accordance with the		The Valuation Rules
	Contract		
3.15	Antiquities	5.4	Measurable Work
		5.5	Daywork
3.16	CDM Regulations	5.6	Change of conditions for other work
		5.7	Additional provisions
C4: 4	Devement		Additional provisions
Section 4	Payment		
Section 4		Section 6	Injury, Damage and Insurance
Section 4	Payment  Contract Sum and Adjustments		Injury, Damage and Insurance
Section 4 4.1	Contract Sum and Adjustments		
			Injury, Damage and Insurance
4.1	Contract Sum and Adjustments  Adjustment only under the Conditions	Section 6	Injury, Damage and Insurance Personal Injury and Property Damage
4.1 4.2	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account	<b>Section 6</b> 6.1 6.2	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property
4.1 4.2	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments	Section 6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property  Loss or damage to Existing Structures or their
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes	<b>Section 6</b> 6.1 6.2	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT	<b>Section 6</b> 6.1 6.2	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property  Loss or damage to Existing Structures or their contents
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes	<b>Section 6</b> 6.1 6.2	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT  Construction Industry Scheme (CIS)	<b>Section 6</b> 6.1 6.2	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property  Loss or damage to Existing Structures or their contents
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT  Construction Industry Scheme (CIS)  Payments and Notices – general	Section 6 6.1 6.2 6.3	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT  Construction Industry Scheme (CIS)	Section 6 6.1 6.2 6.3	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability
4.1 4.2 4.3	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT  Construction Industry Scheme (CIS)  Payments and Notices – general	Section 6 6.1 6.2 6.3	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage
4.1 4.2 4.3 4.4 4.5	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim	Section 6 6.1 6.2 6.3	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks
4.1 4.2 4.3 4.4 4.5	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and	Section 6 6.1 6.2 6.3	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing
4.1 4.2 4.3 4.4 4.5	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices	Section 6 6.1 6.2 6.3	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks
4.1 4.2 4.3 4.4 4.5	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures
4.1 4.2 4.3 4.4 4.5 4.6 4.7	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period
4.1 4.2 4.3 4.4 4.5	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and amount	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under
4.1 4.2 4.3 4.4 4.5 4.6 4.7	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under Works Insurance Policies
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and amount Pay Less Notices and other general	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9 4.10	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT  Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and amount Pay Less Notices and other general provisions Contractor's right of suspension	Section 6 6.1 6.2 6.3 6.4 6.5 6.6	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under Works Insurance Policies Terrorism Cover – policy extensions and premiums Terrorism Cover – non-availability – Employer's
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9 4.10	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and amount Pay Less Notices and other general provisions Contractor's right of suspension  Interim Payments – calculation of sums	Section 6  6.1 6.2 6.3  6.4 6.5 6.6  6.7 6.8 6.9 6.10 6.11	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under Works Insurance Policies Terrorism Cover – policy extensions and premiums Terrorism Cover – non-availability – Employer's options
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9 4.10	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT  Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and amount Pay Less Notices and other general provisions Contractor's right of suspension	Section 6  6.1 6.2 6.3  6.4 6.5 6.6  6.7 6.8 6.9 6.10 6.11 6.12	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under Works Insurance Policies Terrorism Cover – policy extensions and premiums Terrorism Cover – non-availability – Employer's options Evidence of insurance
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9 4.10	Contract Sum and Adjustments  Adjustment only under the Conditions Items included in adjustments Taking adjustments into account  Taxes  VAT Construction Industry Scheme (CIS)  Payments and Notices – general provisions  Advance payment Interim Payments – Contractor's Interim Payment Applications, due dates and Payment Notices Relevant statement and Final Payment Notice Interim and final payments – final date and amount Pay Less Notices and other general provisions Contractor's right of suspension  Interim Payments – calculation of sums	Section 6  6.1 6.2 6.3  6.4 6.5 6.6  6.7 6.8 6.9 6.10 6.11	Injury, Damage and Insurance  Personal Injury and Property Damage  Contractor's liability – personal injury or death Contractor's liability – loss, injury or damage to property Loss or damage to Existing Structures or their contents  Insurance against Personal Injury and Property Damage  Contractor's insurance of his liability Contractor's insurance of liability of Employer Excepted Risks  Insurance of the Works and Existing Structures  Insurance Options and period Related definitions Sub-contractors – Specified Perils cover under Works Insurance Policies Terrorism Cover – policy extensions and premiums Terrorism Cover – non-availability – Employer's options

6.14	Loss or damage to Existing Structures – right of termination		Termination by Contractor		
	Professional Indemnity Insurance	8.9 8.10	Default by Employer Insolvency of Employer		
6.15 6.16	Obligation to insure Increased cost and non-availability	8.11	Termination by either Party and regulations 73(1)(a) and 73(1)(c) of the PC (Scotland)		
	Joint Fire Code – compliance	8.12	Regulations Consequences of Termination under clauses 8.9 to 8.11, etc.		
6.17	Application of clauses	Section 9	Settlement of Disputes		
6.18 6.19	Compliance with Joint Fire Code Breach of Joint Fire Code – Remedial Measures	9.1	Mediation		
6.20	Joint Fire Code – amendments/revisions	9.2	Adjudication		
Section 7	Assignation , Performance Bonds and Guarantees, Third Party Rights and	0.0	Arbitration		
	Collateral Warranties	9.3 9.4	Conduct of arbitration  Notice of reference to arbitration		
Assignation	on	9.5	Powers of Arbitrator		
7.1 7.2	General Rights of enforcement		Schedule		
7.3	Performance Bonds and Guarantees	Schedule	Schedule Part 1 Design Submission Procedure Schedule Part 2 Supplemental Provisions		
	Clauses 7A to 7E – Preliminary	Schedule			
7.4 7.5 7.6	Rights Particulars Notices Not used	Part 1 Part 2			
	Third Party Rights from Contractor	Schedule	Schedule Part 3 Insurance Options		
7A 7B	Rights for Purchasers and Tenants Rights for a Funder		Insurance Option A (New Buildings – All Risks Insurance of the Works by the Contractor)		
	Collateral Warranties from Contractor		Insurance Option B (New Buildings – All Risks Insurance of the		
7C	Contractor's Warranties – Purchasers and		Works by the Employer) Insurance Option C		
7D	Tenants Contractor's Warranty – Funder		(Joint Names Insurance by the Employer of Existing Structures and Works in or Extensions		
7E	Third Party Rights and Collateral Warranties from Sub-Contractors	Schedule	to them)  chedule Part 4 Code of Practice		
Section 8	Termination	Schedule	edule Part 5 Third Party Rights		
	General	Part 1: Part 2:	Third Party Rights for Purchasers and Tenants Third Party Rights for a Funder		
8.1 8.2 8.3	Meaning of insolvency Notices under section 8 Other rights, reinstatement	Schedule Purchase	Part 6 Forms of Bonds and Contracts of		
	Termination by Employer	Part 1: Part 2:	Advance Payment Bond Contracts of Purchase from the Contractor and		
8.4 8.5 8.6	Default by Contractor Insolvency of Contractor Corruption and regulation 73(1)(b) of the	Part 3:	Sub-Contractor in respect of payment for off-site materials and/or goods Retention Bond		
8.7	PC (Scotland) Regulations Consequences of termination under	Schedule	Part 7 SBCC Fluctuations Option A		
8.8	clauses 8.4 to 8.6 Employer's decision not to complete the		(Contribution, levy and tax fluctuations)		
	Works	Schedule	Part 8 Contract Documents		



## **Agreement**

Between	The Employer		
			)[1]
	of/whose registered office is at		
And	The Contractor		
		(Company No	)[1]
	of/whose registered office is at		

<sup>[1]</sup> 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 Scotland or 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 Design and Build Contract Guide for use in Scotland.

