

COVID-19 Refurbishment Contract (for non-structural works)

June 2020

CONTRACT dated 20 between
Employer: of
..... and
Contractor: of

It is hereby agreed:

1. Words with initial capitals shall have the meanings given to them in the schedule to this contract.
2. The Employer and the Contractor shall collaborate on the Works in a spirit of mutual trust and co-operation and with the aim of eliminating any disputes in relation to the Works.
3. With effect from the Commencement Date until the Completion Date, the Employer shall give the Contractor access to the Premises during the Working Hours and will allow the Contractor to use the Free Facilities free of charge.
4. The Contractor shall:
 - 4.1. obtain all necessary consents that may be required for the Works and provide copies of all such consents to the Employer within seven days of receipt of each such consent;
 - 4.2. commence the Works on the Commencement Date and carry out the Works in a regular and diligent manner during the Working Hours so as to complete the Works by the Completion Date;
 - 4.3. where it is responsible for any design in connection with the Works, carry out that design in accordance with the reasonable skill and care of a competent designer of the relevant discipline who is experienced in designing works of a similar size, scope and nature as the Works;
 - 4.4. where the Construction (Design and Management) Regulations 2015 apply, act as "Principal Designer" and "Principal Contractor" for the purposes of the said Regulations (unless the parties agree to the contrary in writing);
 - 4.5. be responsible for sanitising the Premises (including, without limitation, the Free Facilities) in accordance with the Coronavirus Disease Laws, Guidance and Recommendations from the

Commencement Date until the Completion Date and during any periods that it takes access to the Premises in accordance with clause 8;

4.6. carry out the Works:

- 4.6.1. in accordance with the Specification;
- 4.6.2. in a good, proper and workmanlike manner;
- 4.6.3. using materials of a satisfactory quality that are suitable for their intended purpose and that comply with all applicable standards of the Country;
- 4.6.4. in accordance with manufacturers' instructions;
- 4.6.5. in compliance with the applicable laws of the Country;
- 4.6.6. so as to prevent or minimise health and safety risks to the Employer and other people staying or working in or visiting the Premises including, without limitation, complying with Coronavirus Disease Laws, Guidance and Recommendations; and
- 4.6.7. so as to minimise (to the extent reasonably practicable) noise, nuisance and pollution arising from the Works;

4.7. store its equipment at the end of each day, regularly dispose of any rubbish from the Works and leave the Premises in a clean and tidy condition upon completion of the Works and, without limitation, in compliance with Coronavirus Disease Laws, Guidance and Recommendations; and

4.8. immediately remove from the Works and the Premises any Contractor personnel showing symptoms of Coronavirus Disease and potentially affected colleagues and not allow such personnel back on the Premises unless and until they have self-isolated for a period of 14 days from the date of development of such symptoms.

5. The Contractor hereby grants to the Employer an irrevocable, royalty-free, non-exclusive licence (including the right to grant sub-licences) to copy and use the Contractor's Documents in connection with the Works and/or the Site provided that the Contractor shall not be liable for any use of the Contractor's Documents for any purpose other than that for which they were prepared.

6. If the Employer requires a variation to the Works, the Employer shall notify the Contractor of the requested variation proposed and the Contractor shall provide the Employer with a quotation confirming the impact on the Contract Price and the Completion Date within two working days of the request by the Employer. The Employer shall confirm that it wishes the Contractor to proceed with the variation within two working days of receipt of the quotation, and the Contract Price and the Completion Date shall be adjusted by the amount and period referred to in the Contractor's quotation. If the Employer does not confirm acceptance of the Contractor's quotation within two working days of its receipt then the proposed variation shall not be carried out (unless the parties otherwise agree).

7. The Contractor shall only be entitled to:

- 7.1. an extension to the Completion Date by such fair and reasonable period of delay that it suffers in completing the Works due to reasons outwith its control which were not reasonably foreseeable at the Contract Date; and
- 7.2. an addition to the Contract Price as a result of any extension to the Completion Date where the reason for that extension is due to a delay caused by the Employer,

including, without limitation, in each case where variations to the Works are instructed by the Employer.

- 8. When the Works have been finished to the Employer's reasonable satisfaction, the Employer shall issue a notice to the Contractor confirming the date the Works finished. The Contractor shall be liable to the Employer for the Delay Damages if the Works are finished after the Completion Date.
- 9. The Employer may give the Contractor notice of any defects which have arisen in the Works at any time or times during the Defects Correction Period and for the Contractor is responsible for. Subject to access to the Premises being provided by the Employer, such defects shall be made good by the Contractor as soon as reasonably practicable. If the Contractor does not fix the defects within a reasonable period, the Employer may employ and pay other persons to execute the required works without the issue of a further notice and all costs thereby incurred by the Employer may be deducted from any monies

- due or to become due to the Contractor under this contract or may be recovered from the Contractor by the Employer as a debt.
10. The Contract Price shall be paid in accordance with the Payment Instalment Schedule and shall become due 21 days after the later of: (a) the date of completion of the relevant stage or the date specified in the Payment Instalment Schedule or the occurrence of any other event which under the terms of this contract gives rise to an entitlement to payment; and (b) the date of receipt by the Employer of a value added tax invoice on the Contractor's headed notepaper in relation to the amount due. The final date for the making of any payment provided for in this contract shall be the date occurring seven days after the date on which that payment falls due.
 11. The Contractor shall be liable for and indemnify the Employer against any expense, liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect of:
 - 11.1. personal injury to or death of any person whomsoever arising out of or in the course of or caused by the carrying out of the Works;
 - 11.2. any injury or damage whatsoever to any property heritable or movable (including injury or damage to the Works and to any unfixed materials and goods delivered to, placed on or adjacent to the Premises) insofar as such injury or damage arises out of or in the course of or by reason of the carrying out of the Works,
except, in each case, to the extent that the same is due to any act or neglect of the Employer or of any person for whom the Employer is responsible.
 12. This contract may be terminated (without prejudice to any antecedent claims due to or by either party) upon written notice:
 - 12.1. by either party if the other party is insolvent;
 - 12.2. by the Employer: (a) for convenience at any time; or (b) if the Contractor is in breach of any of its obligations under this contract and does not remedy the breach within seven days of receiving written warning from the Employer (such warning to give notice of the breach); and
 - 12.3. by the Contractor if the Employer is in breach of any of its obligations under this contract and does not remedy the breach within seven days of receiving written warning from the Contractor (such warning to give notice of the breach).
 13. Neither the Employer nor the Contractor shall assign or sub-contract their rights or obligations under this contract.
 14. The parties shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between senior representatives of the parties, who shall have authority to settle the dispute. If the matter is not resolved by negotiation within 10 days of receipt of a written "invitation to negotiate", the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (ADR) procedure or, in default of agreement, through an ADR procedure as recommended to the parties by the President or the Vice President, for the time being, of the Chartered Institute of Arbitrators. If the matter has not been resolved by an ADR procedure within 30 days of the initiation of that procedure, or if any party will not participate in an ADR procedure, the dispute may be referred to the courts of the Country. This clause shall be without prejudice to the reference of any dispute by either party at any time in accordance with any statutory dispute resolution method mandated by the laws of the Country.
 15. The laws of the Country shall apply to this contract and the courts of the Country shall have exclusive jurisdiction over any disputes arising out of or in connection with this contract.

This contract is executed as follows:

Authorised Signatory for Employer:

Authorised Signatory for Contractor:

Schedule

“Commencement Date” means

“Completion Date” means.....

, as such date may be extended in accordance with clause 6 of the contract.

“Contract Date” means the date set out at the start of this contract.

“Contract Price” means the amount of £

together with any value added tax payable thereon.

“Contractor” means the party identified as such at the head of the contract.

“Contractor’s Documents” means the specifications, drawings and other documents and information prepared by or on behalf of the Contractor in relation to the Works.

“Coronavirus Disease” means COVID-19 (the official designation of the disease which can be caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)) and any related strain thereof.

“Coronavirus Disease Laws, Guidance and Recommendations” means all applicable laws and national legislature guidance and recommendations of the Country regarding Coronavirus Disease.

“Country” means the country in which the Premises are located.

“Defects Correction Period” means the period of

weeks commencing on the date on which the Employer issues a notice of completion of the Works pursuant to clause 7.

“Delay Damages” means at a rate of

per day for each day beyond the Completion Date it takes the Contractor to complete the Works.

“Employer” means the party identified as such at the head of the contract.

“Free Facilities” means

“Payment Instalment Schedule” means

“Premises” means.....

“Specification” means

“Working Hours” means.....

“Works” means.....

as more particularly described in the Specification.



Guidance notes

General

This contract is available to use free of charge by parties wishing to carry out simple refurbishment or fit-out works of low value and of a non-structural nature. It has been purposed with the intention of being used where such works require to be carried out in order to achieve social distancing measures required as a consequence of **Coronavirus Disease** in order that the relevant employer's premises can re-open for business. It is non-jurisdictional specific except that it requires compliance with the laws of the country in which the **Premises** that are the subject of the **Works** are situated.

The contract is drafted as a simple contract and that will limit the duration for which claims may be brought under it. If in doubt about use of this contract, then legal guidance should be sought in relation to it.

It should be noted that it is assumed that there will be only limited design input required from the **Contractor** given the nature of the works to be carried out under the contract. However, if these do turn out to be slightly more extensive, then the parties should consider inserting a new clause 3.7 as follows: *take out and maintain a professional indemnity insurance policy in an amount of not less than £[] [in respect of each and every claim][in the aggregate] for the duration of its liability under this contract for as long as it remains available at commercially reasonable rates and terms.* The amount of such insurance to be maintained is to be inserted into the clause and the basis of insurance required selected from the options in square brackets.

Parties using this contract should note that certain provisions will be implied into this contract under the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009 depending on the nature of the works and if they are commercial or residential. These include, but are not limited to, the right to adjudicate in the event that a dispute arises, the requirement for certain notices if payment is to be withheld and the requirement for payment to be made in instalments unless the works are to have a duration shorter than 45 days.

Reference to the national authorities is intended to cover the UK government and devolved legislatures of the UK as appropriate. The national authorities' guidance and recommendations on required measures relating to **Coronavirus Disease**, which includes additional guidance for construction sites, are under constant review and are changing all the time. It is important to stay up to date with the latest guidance which can be accessed through the following links:

England: <https://www.gov.uk/coronavirus>

Scotland: <https://www.gov.scot/coronavirus-covid-19/>

Wales: <https://gov.wales/coronavirus>

Northern Ireland: <https://www.health-ni.gov.uk/coronavirus>

The UK government has also recommended compliance with the Construction Leadership Council "Site Operating Procedures during Covid-19", the latest version of which is available at the following link: <https://www.constructionleadershipcouncil.co.uk/>.

Contract Completion

The **Contract Date** is the date that both parties wish to bring the contract into effect from and should be handwritten in at the top of the first page of the contract after both parties have signed it.

The name and registered or principal address of each party should be inserted against the designations of "**Employer**" and "**Contractor**" at the head of the document.

The **Defects Correction Period** is the period after completion of the **Works**, where the **Contractor** can be asked to come back and fix defects that have arisen after the **Completion Date** or were not sufficiently material to prevent completion from being confirmed but existed at that date. This period should not exceed 52 weeks but a period of 12 weeks or 26 weeks may be more appropriate depending on the nature of the **Works**. If there is to be no **Defects Correction Period**, then a period of "0 weeks" can be inserted; this is not recommended.

Delay Damages are what is to be paid by the **Contractor** to the **Employer** for each day beyond the **Completion Date** that it takes the **Contractor** to complete the **Works** to compensate the **Employer** for the losses it is likely to suffer as a result of this delay, e.g. loss of profit due to inability to trade.

Typically, this is expressed as an amount per day, e.g. at a rate of £100 per day for each day beyond the Completion Date it takes the Contractor to complete the Works. However, given the purpose of this contract and the reason for the Works, we would recommend that rather than imposing a financial delay damage on the Contractor that the parties agree that the Contractor will carry out a specified number of volunteer hours for an agreed charity for each day of delay instead, e.g. at a rate of 14 volunteer hours for the Social Bite charity in Edinburgh for each day beyond the Completion Date it takes the Contractor to complete the Works. Please note that if an amount of "£0 per day" or "N/A" is inserted then the Employer will not be entitled to any recompense from the Contractor for failure to complete the Works by the Completion Date.

Free Facilities are the utilities and welfare facilities that the Employer is to provide free of charge to the Employer. Examples are electricity, water, washrooms, mess room, telephone, internet connection etc.

Premises is the place where the Works are being carried out. If there are any restrictions on access then specify those restrictions as part of the description of the premises.

Working Hours specify when the Contractor is allowed to take access to the Premises to carry out the Works. If this is not to be on a seven days a week basis then specify both the working days as well as the working hours.

The Specification contains a more detailed description of the Works and may comprise a descriptive document and/or drawings, e.g. the specification entitled "Office Partition Works" dated 1 July 2020 and drawing numbers A10(1)-(3), copies of which are attached hereto. The Specification should be attached to the contract. If there is no specification document or drawings, then the words "N/A" should be inserted against this entry.

Works is a summary description of the works to be carried out under the contract, e.g. the partitioning works at certain defined locations, as more particularly described in the specification.

Once completed, an authorised signatory for each party should sign where indicated at the foot of page two of the contract. An authorised signatory is a senior representative of a party, who has authority to bind that party to the contract. Note, however, that who is authorised to sign a simple contract differs depending on the type of business.

Key contacts

This document sets out a simple contractual framework for carrying out straightforward non-structural (fit-out) works while the Coronavirus Disease Laws, Guidance and Regulations are in place. A party with any doubts as to whether it is an appropriate form of contract for a specific project should seek legal or other advice and should not take, or refrain from taking, any action without such advice.

For further information, contact:



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