

# Major Project Construction Contract

## Major Project Sub-Contract

### Amendment 1 Issued April 2007

#### CDM Regulations

Clause number and heading	Action
Clause 1	'CDM Regulations': <b>Delete</b> '1994' and <b>insert</b> '2007'
Sub-Contract Particulars, 1	'Period for Completion': <b>Delete</b> '(if any)'
Sub-Contract Particulars, 14.1	First attendance item: after 'for work over 3.3m' <b>insert</b> <sup>[ 1 ]</sup> ; <b>Insert</b> new attendance item: 'provision of reasonable measures to prevent access by unauthorised persons'; <b>Insert</b> new footnote text for <sup>[ 1 ]</sup> : 'Consideration should be given to the Work at Height Regulations 2005 and the item amended as appropriate.'
Sub-Contract Particulars, 20	<b>Delete</b> existing entry and <b>insert</b> :  'Period for the Sub-Contractor's pre-site activities <sup>[ 1 ]</sup> _____ commencing on _____',  <b>Insert</b> new footnote text for <sup>[ 1 ]</sup> : 'The period inserted must take account of the planning and preparation period as referred to in regulation 13(3) of the CDM Regulations.'

#### Sundry amendment

Clause number and heading	Action
Clause 1	'Material Breach' – second bullet under 'by the Sub-Contractor': <b>Delete</b> '3.1' and <b>insert</b> '9.1'

# Guidance Notes to Amendment 1

## CDM Regulations

### *General*

The Construction (Design and Management) Regulations 2007 impose on clients, designers, construction/project managers, contractors and sub-contractors at all levels, a wider and more coherent set of health, safety and welfare duties than the previous (1994) Regulations. A sub-contractor has the same duties as a contractor and, where he designs, will also have the obligations of a designer.

Under the 2007 Regulations, as part of the greater emphasis placed on the need to plan and on communication and co-ordination, the functions of the Planning Supervisor are replaced by those of a CDM co-ordinator, and a 'construction phase plan' replaces the Health and Safety Plan; the Health and Safety file provisions remain. The 2007 Regulations also eliminate the distinction in the 1994 Regulations between the notification requirements and applicability provisions for particular regulations. While the 2007 Regulations maintain the basic 1994 criteria as to notifiability, i.e. 30 days or 500 person days of construction work, there are now only two types of project – notifiable and non-notifiable. The 'five or more workers' requirements of the 1994 Regulations have been omitted.

Part 2 of the Regulations (regulations 4 to 13) sets out duties that apply to all projects, Part 3 those that apply to notifiable projects (regulations 14 to 24).

### *Amendments*

In terms of CDM Regulations, JCT Amendment 1 makes strictly limited amendments to the Sub-Contract itself. The principal change is in respect of the Sub-Contract Particulars entry for clause 20. This particular has been revised and a footnote added so as to make it clear that the period for the Sub-Contractor's pre-site activities will always apply and must take account of the planning and preparation period as referred to in regulation 13(3) of the CDM Regulations.

By regulation 13(3) every contractor at every level is required to specify the minimum period available to his sub-contractors for planning and preparation and this period must be included in the period inserted in the Sub-Contract Particulars (clause 20). There should be no requirement for the sub-contractor to start site work until he has had proper opportunity to plan and prepare.

### *Other duties and preconditions*

Under the Regulations each sub-contractor on every project, like the main/principal contractor, has a wide variety of duties, starting with requirements of competence (both of himself and those he engages), the general duties of co-operation, co-ordination, prevention, provision of welfare facilities and monitoring, and the preconditions to commencing construction work, e.g. secure site, planning and preparation period and ensuring the training, site induction (where not provided by the principal contractor) and supply of information to workers (regulations 4 to 7 and 13).

Where the project is notifiable, there are additional preconditions to construction work which sub-contractors should check (naming of CDM co-ordinator and principal contractor, supply to the sub-contractor of relevant parts of the construction phase plan and notice of the project being given to the Health and Safety Executive by the CDM co-ordinator), various duties to supply information to the principal contractor (risks, identity of (sub-)sub-contractors and injuries etc.) and other duties such as compliance with directions from the principal contractor (regulation 19).

Where there is sub-contractor's design, there are also the duties of a designer in each case, e.g. avoidance of foreseeable health and safety risks and supply of sufficient information (regulations 11, 12 and, if notifiable, 18).

### *Health and Safety*

The contractor will need to agree with his sub-contractors how Health and Safety issues will be dealt with. This will involve compliance with the Construction (Design and Management) Regulations 2007 and the Work at Height Regulations 2005, and the development of, for example, Risk Assessments, Method Statements, and the Control of Substances Hazardous to Health (COSHH) assessments.