

## **The RIAI Articles of Agreement Building Contract, 2011 Edition**

This is a guidance note on the modifications to the 2002 edition, (Revision 1, Print 3), printed December 2003 that has been agreed by the constituent bodies of the Liaison Committee to the Construct Industry.

The new edition is the **2011 edition** and is now available from the RIAI Bookshop, SCS and CIF. All copies of the 2011 edition will be numbered sequentially starting with the serial number Q 1101. The serial number is printed on the front and back page of the contract document.

### **A Summary of the Principle Changes**

- Value Added Tax is removed from the contract sum and reference elsewhere in the contract are also removed.
- Reference to contractor's discounts or trade discounts is removed.
- "*Acts of Terrorism*" is added to the list of exclusions in both the Public Liability and All Risks (previously included as loose leaf insertions from August 2007).
- Former loose leaf insertions are now printed as part of the new document.

### **Details of the Changes**

**Page 1:** The contract sum to be paid by the Employer to the Contractor is exclusive of Value Added Tax

**Page 3** Conditions - Definitions, a new clause is added at 1 (c)

*"The Contract Sum and other amounts in the Contract, unless otherwise stated, shall exclude VAT. The Employer shall pay the Contractor, or the Revenue Commissioners when required by Law or their practice, any VAT arising. When invoicing the Employer, the Contractor shall add for VAT, at the statutory rate(s)."*

**Page 7:** Nominated Sub-Contractors – 16 (b)

The provision for cash discounts has been removed, and the following text has been added:  
*"materials or goods less only any retention money which the Contractor may be entitled to deduct;"*

**Page 7:** Nominated Sub-Contractors – 16 (b)

The provision for cash discounts has been removed, and the following text has been added:  
*"pay to such Nominated Sub-Contractor the full amount so certified whereupon the "Limit of Retention Fund" named in the Appendix hereto shall be reduced in proportion to the amount so certified and the Contractor shall be discharged from all liability for the work or materials covered by such certificate except for any latent defects;"*

**Page 8:** Prime Cost Sums – 19 (a)

A new sentence is added after 19 (a)  
*"Such payments shall be net of any commission or trade or other discount".*

**Pages 10-11:** Insurance Policies – 23 (d)

*"Pollution or contamination from asbestos found in new building"* is added to exclusions for Public Liability and All Risks  
*"Acts of Terrorism"* is added to exclusions for Public Liability and All Risks

**Pages 20, 21-22:** Wage and Price Variations 36 (b)

A new paragraph (iii) is added to 36 (b) additions in italics:

*(iii) the cost of Public Liability insurance, Employer's Liability insurances and Contractor's All Risk insurances at the designated date. If the said rates of wages and other emoluments, expenses and/or labour on-costs are increased or decreased after the Designated Date the amount of such increases or decreases of such rates of wages, other emoluments, expenses and/or labour on-costs shall be an addition to or a deduction from the Contract Sum as the case may be and shall be paid to or allowed by the Contractor accordingly.*

*If the said cost of insurances are increased or decreased after the Designated Date the amount of such increases or decreases of such cost shall be an addition to or a deduction from the Contract Sum as the case may be and shall be paid to or allowed by the Contractor accordingly.*

A new paragraph (iii) is added to 36 (c) additions in italics:

*(ii) If during the progress of the Works the market price of any of the materials or goods specified as aforesaid varies from the basic price thereof then the difference between the basic price and the market price payable by the Contractor and current when any such goods or materials are invoiced to him shall be an addition to or a deduction from the Contract Sum as the case may be and shall be paid to or allowed by the Contractor accordingly;*

The new clause (d) is included the text in italics:

*(d) (i) The prices of contractors plant and equipment necessary for the execution of the works are deemed to be the market prices current at the Designated Date (hereinafter referred to as "the basic prices") and the Contractor shall, if required, submit to the Architect a list of the basic cost of such plant and equipment.*

*(ii) If during the progress of the Works the market price of any of the plant and equipment specified as aforesaid varies from the basic price thereof then the difference between the basic price and the market price payable by the Contractor and current when any such goods or materials are invoiced to him shall be an addition to or a deduction from the Contract Sum as the case may be and shall be paid to or allowed by the Contractor accordingly.*

The existing clause (d) now becomes (e) with replacement text in italics:

*(e) The Contractor shall within a reasonable time of his first becoming aware of any substantial increase in the price of any of the materials or goods necessary for the execution of the Works of any substantial increase or the price of plant and equipment or any substantial increase in the sub-contract prices for any portion of the Works sub-let give written notice thereof to the Architect.*

The existing clause (e) now becomes (f) replacement text in italics:

*(f) The Contractor may include in any progress statement as provided for by Clause 35(b) of these conditions (or alternatively as part of the documentation to be furnished by him pursuant to Section (i) of sub-clause 35 (h)) a detailed statement of any increases or decreases in the rates of wages, other emoluments, expenses, insurances and/or Labour on-costs as defined in sub-clause (b) of this Clause, in the prices of materials or goods necessary for the execution of the Works, in the price of plant and equipment or in the price of any sub-contracts for any portion of the Works.*

*When the Architect has satisfied himself as to the correctness of the said statement such increases and/or such decreases shall be taken into account pursuant to Clause 35(c) in the next certificate for payment to which the Contractor may be entitled.*

**Pages 25-26:**

Acts of Terrorism is defined in the Permitted Wordings:

**“Act of Terrorism** - means an act including the use of force or violence and/or the threat thereof by any person or group of persons against persons or property, or the commission of an act that interferes with or disrupts an electronic or communications system whether acting alone or on behalf of or in connection with any organisation or government, power, authority, or military force, committed for political, religious, ideological, ethnic, racial or cultural objectives, or to express support for (or opposition to) a philosophy, ideology, religion, ethnic or racial group, or culture, or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear.”

**Page 27:** Text for the Retention Bond:

They are no longer loose leaf, but are incorporated in the printed document.

**Page 28:** Conciliation Procedure

They are no longer loose leaf, but are incorporated in the printed document.

**Page 29:** Supplement

Additional text in italics is added to 2 (b)

(b) *“Expenses”, means travelling and country money, contractor’s contributions to the Construction Industry pension fund and sick pay scheme and any other payments not covered by paragraph (a) of this section and which may be agreed from time to time by the Joint Industrial Council for the Construction Industry or, failing this, by agreement between the Construction Industry Federation and the authorised Trade Unions.*

Paragraph 3 (a) has additional text in italics

“Labour on-costs necessarily payable” means:

- (a) *the relative percentages in respect of Wage Variation Claims set out in the document entitled “Percentage Additions to Labour Costs” issued in agreement between the Society of Chartered Surveyors and the Construction Industry Federation, the percentages to be used in calculating increases or decreases in wages, other emoluments and expenses over any period being those listed in the edition of the document then effective. Increases or decreases in the relative percentages themselves shall not be payable until taken into account in the edition of the aforesaid document next issued after their occurrence.*

B has additional text in italics added in a paragraph under(c):

*formwork or any other materials which can be used on another job when no longer required for the Works; materials or goods for temporary work associated with but not embodied in the Works nor used in the construction of the Works.*

New clause added in italics:

*C. Meanings for Clause 36(d)*

*“Contractors plant and equipment necessary for the execution of the works” means:*

- (a) *Plant and equipment engaged upon or in connection with the works including but not limited to all plant and equipment, site huts, hoardings, scaffolding, tools etc.*

Concluded RIAI March 2011