



JCLI LANDSCAPE WORKS CONTRACT 2012

Amendment 1: CDM Regulations

April 2015

Clause number and heading	Action
Fifth Recital	Delete '2007' and insert '2015'
Article 4 heading	Delete 'CDM Co-ordinator' and insert 'Principal Designer'
Article 4	Delete 'and it is notifiable, the CDM Co-ordinator' and insert 'and there will be more than one contractor working on the project at any time as defined in those regulations, the Principal Designer'; Delete 'or, if he ceases to be the CDM Co-ordinator, such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations' and insert 'or such replacement as the Employer at any time appoints to fulfil that role'
Article 5	Delete 'and it is notifiable' and insert 'and there will be more than one contractor working on the project at any time as defined in those regulations'; Delete 'or, if he ceases to be the Principal Contractor, such other contractor as the Employer shall appoint pursuant to regulation 14(3) of those regulations' and insert 'or such replacement as the Employer at any time appoints to fulfil that role'
Footnote [7]	Delete the existing text and insert the following: 'Insert the name of the Principal Designer in Article 4 if the Landscape Architect/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. Articles 4 and 5 are not applicable if the project that comprises or includes the Works does not include any "construction work" (as defined in the CDM Regulations 2015) or if there will only be one contractor working on the project at any time, unless circumstances change (eg the addition of "construction work" which requires a sub-contractor) – see the Contract Particulars (Fifth Recital). 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.'
Footnote [11]	Delete the existing text and insert the following: 'Under the CDM Regulations 2015 a project is notifiable if the construction work on a construction site is scheduled either to last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project or to exceed 500 person days. For the purposes of assessing whether only one or more than one contractor is required, the regulations count the Contractor's sub-contractors as separate contractors.'

Clause number and heading	Action
Contract Particulars, Fifth Recital	<p>Delete the existing text in the third column and insert the following:</p> <ul style="list-style-type: none"> * The CDM Regulations do not apply and Articles 4 and 5 and clause 3.9 are not applicable (unless circumstances change) or * The CDM Regulations apply, only one contractor (as defined in those regulations) is required, clause 3.9 applies and Articles 4 and 5 are not applicable (unless circumstances change) or * The CDM Regulations apply, more than one contractor (as defined in those regulations) is required, Articles 4 and 5 and clause 3.9 apply <p>the project</p> <ul style="list-style-type: none"> * is/is not notifiable'
Contract Particulars, 1-1	Delete the entire entry on 'CDM Planning Period' and footnote [13]
Clause 1-1	<p>Delete the definitions of 'CDM Co-ordinator' and 'CDM Planning Period';</p> <p>'CDM Regulations': delete '2007' and insert '2015';</p> <p>'Construction Phase Plan': delete the existing text and insert 'the plan referred to in regulation 2 of the CDM Regulations, including any updates and revisions.';</p> <p>Delete the definition of 'Principal Contractor'</p>
Clause 2-9	Delete '3-9-4' and insert '3-9 in respect of the supply of documents and information'
Clause 2-12.2	Delete '3-9-4' and insert '3-9 in respect of the supply of documents and information'
Clause 3-3-2-2	<p>Delete the existing text and footnote [28] and insert the following:</p> <p>'each party to the sub-contract shall in relation to the Works and the site comply with applicable CDM Regulations.'</p>
Clause 3-9 heading	Delete '- Undertakings to comply ^[28] ' and footnote [28]
Clause 3-9	<p>Delete the existing text and insert the following:</p> <p>'Each Party undertakes to the other that in relation to the Works and site he will duly comply with applicable CDM Regulations. In particular but without limitation:</p> <ul style="list-style-type: none"> -1 if a Principal Designer and a Principal Contractor have been appointed, the Employer shall ensure that the Principal Designer carries out his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out his duties under those regulations; -2 the Contractor shall comply with regulations 8 and 15 and, where he is the Principal Contractor, with regulations 12 to 14;^[29] -3 whether or not the Contractor is the Principal Contractor, compliance by the Contractor with his duties under the regulations, including any such directions as are referred to in regulation 15(3), shall be at no cost to the Employer and shall not entitle the Contractor to an extension of time; -4 if the Employer appoints a Principal Designer or a Principal Contractor or a replacement for the Principal Designer or Principal Contractor, the Employer shall immediately upon that appointment notify the Contractor with details of the new appointee.'
Footnote [29]	<p>Delete the existing text and insert the following:</p> <p>'Where the Employer is a domestic client, as defined in regulation 2, the Principal Contractor may also be responsible for carrying out certain of the client's duties under regulations 4, 6 and 8.'</p>

Clause number and heading	Action
Clause 3-10	Delete the clause heading, number and text

Incorporation of the modifications

The modifications may readily be incorporated in one of two ways:

- either** by amending the contract document itself in accordance with this Amendment and executing it in its amended form, with each amendment initialled by or on behalf of each party
- or** by attaching this Amendment to the Contract; and, prior to execution, inserting the following further provision in the Articles with the next available number (i.e. normally as Article 9):
- “Article [___]: Amendment 1: CDM Regulations – incorporation**
 This Agreement and the Conditions shall have effect as modified by the amendments set out in the attached Amendment 1: CDM Regulations.”
- (that Article in similar fashion being initialled on execution.)

This document is issued by the **JCLI Contracts Forum** comprising:

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