

These are the conditions of Contract referred to in the
Agreement made the _____ day of _____ 1938 between
the Chairman & Members of the Broadland & Tasht Washes
Drainage Board and Messrs. Vickers Armstrong Ltd.
Handwritten: *Handwritten initials*

CONDITIONS OF CONTRACT

RECOMMENDED BY

THE ASSOCIATION

OF

CONSULTING ENGINEERS

(INCORPORATED).

For use by their Members in Connection with
ELECTRICAL AND
MECHANICAL ENGINEERING CONTRACTS.

SUBJECT *Pumping Plant for Lock Mill, Spalding*
for Broadland & Tasht Washes Drainage Board

DATE *Dec. 1938.*

INDEX.

	Clause No.
Arbitration	48
Authority of Engineer	11
Bankruptcy, Insolvency or Death of Contractor	46
Claims	28
Contract Drawings	2
Contractor to Execute Contract with Purchaser	4
Contractor's Plant	19
Contractor's Superintendence	13
Cost of Quantities	43
Damage to Persons and Property	28
Damage to Plant	26
Damages for delay in completion	35
Delivery on Site	25
Dismissal of Incompetent Persons	14
Engineer's Decisions	47
Engineer's Order to Commence Work	9
Expenses of Contract	44
Extension of time for completion	36
Extent of Contract	2
Extras	18
Fencing and Lighting	21
Guarantee and Maintenance	41
Hours of Working	23
Inability to accept delivery of Plant	39
Insurance	27
Interference of Traffic	16
Interference with Tests	32
Materials and Workmanship	15
Materials on Works	20
Negligence on the part of the Contractor	22
Omissions	7
Patent Rights	45
Payments to Contractor	37
Pecuniary Compensation for Strikes	40
Power to vary works	17
Powers of Resident Engineer or Engineer's Clerk of Works	12
Provisional Sums	42
Rejection of Defective Work	33
Removal of Spoil	16
Right to withhold Certificates	38
Service of Notice	8
Setting out Works and Notices	10
Strikes	40
Sub-Letting	5
Sufficiency of Priced Bill of Quantities and Tender	3
Sureties	6
Suspension of Work	29
Taking over Tests	30
Taking over "Works"	31
Test at Contractor's Works	24

General Conditions of Contract.

1. In these Conditions and in the Specification and Contract to which they apply the term "Purchaser" shall mean

The Chairman & Members of the Bristol & Glos. Water Drainage Board

and shall include 5

his or their heirs, executors and administrators. The term "Contractor" shall mean the Contractor whose tender has been accepted by the Purchaser to carry out the "Works" described in the Specification; and shall include his or their heirs, executors and administrators.

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The term "Engineer" shall mean *Mr. Hancock*

or other, the Engineer duly appointed by the Purchaser to act as Engineer during the continuance of the Contract. The term "Resident Engineer" or

"Engineer's Clerk of Works" shall mean the person appointed by the Engineer to act for the time being as his Representative in connection with the work.

The "Works" shall mean and include plant and material to be provided and work to be done by the Contractor under the Contract.

The "Contract" shall be held to include the Form of Tender, General Conditions, Specifications, Drawings, Schedule of Prices, Bill of Quantities and the Agreement.

The "Site" shall mean the land and or building which the Purchaser places at the disposal of the Contractor from time to time for the purpose of executing the Contract Works.

2. The Contract shall include the supply of materials and the construction and completion of the several works described in the Specification and shewn upon the drawings attached to the Contract. Such drawings and Specification shall be considered complementary of one another and shall be read together.

Extent of the
Contract and Contract
Drawings.

The Engineer's drawings and Specification are to be considered binding as regards the general scheme and arrangements of Works specified, and all measurements specially marked on the plans shall be rigorously adhered to.

In cases where the Engineer gives his approval in writing to any particular appliances as reasonably complying with the intention of the Specification, the said plans shall be considered binding only so far as they indicate the relation of that particular appliance to the general scheme of the Works, and before the work is put in hand detailed drawings other than shop drawings of such appliances shall be submitted to the Engineer for his approval.

The Contractor shall, at his own expense, supply to the Engineer two copies, or as many more as may be called for in the Specification, of the approved drawings necessary for the Works under the Contract, but shall not be called upon to furnish constructional details further than in the reasonable opinion of the Engineer, as are required for the purpose of the Contract.

If the Contractor shall be called upon to supply additional copies of the drawings, he shall be paid for them at a fair price to be arranged or to be included in the Contractor's tender.

10 The Engineer or his Representative shall, in addition, have the right at all reasonable times to inspect any drawings of any portion of the plant contracted for at the Works of the Manufacturer.

15 The Contractor shall, as the work proceeds, make drawings showing clearly the general scheme of the Contract Works as erected, including particularly the runs and sizes of any pipes, mains, etc., whether steam, hydraulic, electric or otherwise. The plans to be delivered mounted on linen in duplicate to the Engineer on behalf of the Purchaser when application is made for the final certificate.

Sufficiency of Priced Bill
of Quantities and Tender.

3. On the acceptance of his Tender, the Contractor shall forthwith satisfy himself as to the correctness and sufficiency of his Tender for the Works, as well as all prices stated in the Bill of Quantities and the Schedule of Prices and his signature of the Contract shall be construed as an acknowledgment on his part that he has acquired all the information of which he may stand in need in order to confirm his Contract price.

30 The Contractor shall within twenty-one days of the acceptance of his Tender, or so soon after as the Purchaser requires him so to do, enter into and execute a formal Indenture of Contract to be prepared by the Purchaser's Solicitor, which Contract shall specify a penalty to be paid to the Purchaser by the Contractor if he fails in the due performance of the Contract.

Contractor to Execute
Contract with Purchaser.

4. In the event of such formal Indenture of Contract not being signed by the Contractor and his Sureties or Guarantors respectively within such twenty-one days or alternatively within one week from the receipt of same from the Purchaser, the Purchaser shall be at liberty if he so chooses to give notice in writing to the Contractor that failing receipt of the Contract duly signed within seven days from such notice he will revoke his acceptance of the Contract. In the event of the signed Contract not being received by the Purchaser within such seven days the Purchaser may revoke his acceptance and shall not be liable for any claim from the Contractor in respect of any work done but shall be entitled to receive from the Contractor the cost properly incurred by the Purchaser in obtaining new Tenders for the execution of the work.

Similarly in the event of the Contract not being executed by the Purchaser within one month of the acceptance of the Tender or alternatively within two weeks of the receipt by the Purchaser of the Contract signed by the Contractor, the Contractor may give notice to the Purchaser and if the Contract signed by the Purchaser is not received by the Contractor within seven days of such notice the Contractor shall be entitled to revoke his Tender and shall not be liable for any claim from the Purchaser in respect of such Tender but shall be entitled to be repaid for any work already done or materials supplied at the written request of the Purchaser or his Consulting Engineer.

5. No portion of the Contract is to be assigned or sub-let by the Contractor except under the written permission of the Engineer and this permission, which shall not be unreasonably withheld, shall not in any way be interpreted as releasing the Contractor from his liability and obligations under this Contract. In case the Contractor assign or make over the Contract, or underlet or make a sub-contract contrary to this clause, the Purchaser shall be at liberty to determine the Contract.

Duplicate copies of all orders to sub-Contractors shall, if required by the Engineer, be sent to him for his use when inspecting and testing the Works.

6. The Contractor shall if required find two good and substantial Sureties approved by the Purchaser, to be jointly and severally bound with him in a sum as near as may be but not exceeding one-fourth of the amount of the accepted Tender, for the due fulfilment of his Contract in all its parts according to the true intent and meaning thereof. The names, abodes and professions or occupations of the Sureties proposed by the Contractor shall be sent to the Engineer for the approval of the Purchaser which shall not be unreasonably withheld.

7. In the event of anything evidently necessary for the due and complete performance of the Works being omitted to be shown on the Contractor's drawings which are submitted to the Engineer for his approval, the Contractor shall, notwithstanding such approval, execute in a proper manner all such Works as if they had been shown, without being entitled to any extra claim or charge.

8. For the purpose of this Contract, any notice to the Contractor from the Engineer or Purchaser shall be deemed to be served upon the Contractor if it be addressed to him by the name in which he signs the Tender, and be handed to him, or in the case of a firm, to any member of the firm personally or left at his usual place of business, or posted to him by a prepaid registered letter, properly addressed to the name and address given on his form of tender, or such other address as the Contractor may notify in writing to the Engineer for this purpose, or in the case of a limited Company sent to its registered address.

Engineer's Order to commence work and as to non-delivery on Site.

9. The Contractor having signed the Contract, the Engineer will forthwith give him notice to commence the Works and carry them on at such point or points and in such portions as the Engineer may direct. The Purchaser shall in due course give to the Contractor a proper approach and access to and the use of so much of the site as may, in the opinion of the Engineer, be required in order to enable the Contractor to commence and continue the construction and erection of the Works, and shall from time to time as the Works proceed give the Contractor the use of such further portions of such site as the Engineer may from time to time consider proper in that behalf, but the non-delivery in manner aforesaid of the use of such site, or any portion thereof, shall not vitiate the Contract, nor any provision contained in the Specification, nor entitle the Contractor to any increased allowance in respect of money.

Setting-out Works and Notices.

10. The Contractor shall set out the whole of the Works and be responsible for the correctness of the position, levels and dimensions of the several Works, according to the drawings and written instructions of the Engineer. If at any time during the progress of the Works any error shall appear or arise in the position, levels or dimensions of the several Works, the Contractor, on being required so to do by the Engineer, shall at his own expense remove and amend the work to the satisfaction of the Engineer, but the Contractor shall not be held responsible for errors arising from inaccurate information supplied by the Engineer. The Contractor shall observe and comply with the requirements of all Statutes and Bye-laws and shall also serve notices on the Authorities having control of the road surfaces before the same are broken up, and he shall likewise serve notices on the owners of sewers, drains, water, gas or other mains, electric cables, tramways and other things which may be in any way affected by the execution of the Contract Works.

Authority of Engineer.

11. The Works shall be carried out under the direction of and to the satisfaction of the Engineer and the Contractor shall take instructions only from him or his duly authorised representative. The Engineer may from time to time delegate to a representative to be named by him such of the powers and authority vested in him as he may think fit, and such duly authorised representative shall be recognised by the Contractor as properly exercising under the Contract any such powers so delegated.

Powers of Resident Engineer or Engineer's Clerk of Works.

12. The duties of the Resident Engineer or Engineer's Clerk of Works are to watch and supervise the Works and the Contractor shall afford him every proper facility for so doing.

Any written notice from the Clerk of Works condemning any materials plant or workmanship shall have the effect of a similar notice from the Engineer, but the Contractor shall have the right of appeal to the Engineer for his final decision in the matter. The Clerk of Works shall have no authority to relieve the Contractor in any way of his duties and obligations under the Contract, nor to render the Engineer or Purchaser liable for any act or omission nor to order anything involving delay or additional cost.

13. The Contractor shall give all necessary personal superintendence during the execution of the Works, and shall constantly employ at least one good and competent foreman, careful and skilled in the trades and callings required by the specification, to manage and direct in the absence of the Contractor, and such foreman shall, on behalf of the Contractor, have charge of such several drawings, writings, papers, specification and documents as may be delivered to or for the use of the Contractor or for his guidance, and such foreman shall also, on behalf of the Contractor, obey all such instructions and directions as may be given either by the Engineer or Clerk of Works, and he shall not be changed without consent of the Engineer, but shall be dismissed by the Contractor on the direction of the Engineer if and when the Engineer shall see fit so to direct, and thereupon the Contractor shall forthwith employ another good and competent foreman in the former's stead, and so from time to time and as often as occasion may require.

Contractor's Superintendence.

14. Any person employed by the Contractor on the Works who shall appear to the Engineer to be incompetent or to act in an improper manner shall be discharged at the request of the Engineer, and such person shall not be again employed upon the Works without permission from the Engineer.

Dismissal of Incompetent Persons.

15. All the Works shall be executed with the materials specified of the best of their respective kinds, with the best workmanship and in the best manner, to the satisfaction of the Engineer.

Materials and Workmanship.

All materials considered by the Engineer to be unsound or not in accordance with the Specification shall be immediately removed by the Contractor at his own expense and all work carried out imperfectly or with faulty materials must be immediately removed and properly replaced by the Contractor to the satisfaction of the Engineer. Should the Contractor neglect or refuse to do this, the Engineer shall have power to employ other persons for this purpose and to pay the same out of any monies that may then be or shall become due to the Contractor, or the Purchaser may recover the amount of such expense by action at law.

16. All stone, earth, rubbish or other matter arising from the Works, as also all plant and materials brought upon the Works, shall be trimmed and kept as close and tidy as possible and the Contractor shall in all Works which may interfere with the traffic in the public roads, streets, paths and footways give the utmost facilities for public transit, and interfere with the public convenience as little as possible. Should the Contractor execute any part of the Works in such a way as in the opinion of the Engineer may cause unnecessary obstruction to the traffic, and neglect to remove or remedy the same forthwith, when called upon to do so by the Engineer, then and in any such case the Engineer may cause any such obstruction to be remedied at the expense of the Contractor.

Interference of Traffic and Removal of Spoil.

17. The Engineer may from time to time during the execution of the Contract vary, increase or reduce the Contract Works or any part thereof by an amount which except with the consent of the Contractor shall not exceed 20 per cent. of the contract price, and may order any portion of the work executed or partly executed to be removed or altered; and the difference in cost occasioned by any variation, addition, omission, removal or alteration as aforesaid, shall be added to or deducted from the contract price as the case may require, and the amount of such difference shall be ascertained and determined in accordance with the rates specified in the schedule of prices set out in the Contract, so far as the same may be applicable. Where such schedule is not applicable the difference shall be determined according to such rates or prices as shall be fair and reasonable, and such prices in case of dispute shall be referred to arbitration as herein provided.

No addition shall however be made to the contract price in respect of any such variation of or addition to the said Works unless the instructions for the same shall have been given by the Engineer in writing, nor unless such instructions shall state that the matter thereof is to be the subject of an extra charge.

Extras.

18. No claim for extras will be allowed unless the Contractor has, prior to putting the same in hand, obtained from the Engineers an order in writing for such extras. No drawings or other document, except such signed order, will be recognised or construed as an order for extras.

If the Contractor requires any extension of time to carry out the said extras, such extension of time will only be granted if the Contractor applies for such extension at the time the extra order is received.

30 In the event of any orders being given involving charges based on "time and materials" such charges will not be recognised unless the time and material sheets relating to same are approved and signed by the Resident Engineer or Clerk of Works within one week of the date they are incurred.

Contractor's. Plant

35 19. The Contractor, unless otherwise specified, shall also provide all materials, tools, tackle, slings, scaffolding, haulage, labour and apparatus necessary for the delivery and erection of the plant on site.

40 Except where otherwise stated in the Specification all water necessary for the work will be provided by the Purchaser, but all hose, cocks, tanks, etc., required by the Contractor must be provided by him.

45 The value of any undue waste of water on the part of the Contractor will be deducted from the sum payable to him under the Contract.

Material on Works.

20. All materials, plant, tools and appliances required for the construction or erection of the work of the Contract (except instruments and apparatus provided by Clause relating to "Tests

on Completion") that shall have been brought to and delivered on the site of the Works, shall absolutely become the property of the Purchaser until the completion of the Contract, but the Purchaser shall not be liable in any manner for any charge or risk to any materials or other matter which shall have been lost, stolen, damaged or destroyed.

21. The Contractor shall properly light and watch the Works and provide any temporary roadways, footways, guards or fences rendered necessary for the protection of the public or others by reason of the work.

Fencing and Lighting.

22. The Contractor shall commence and carry on the Works with due diligence and expedition having regard to the specified time of completion of the whole of the Works. In case the Contractor fails to do so or neglects to provide proper and sufficient materials, or to employ a sufficient number of workmen to execute the Works, or to comply with any reasonable orders given him in writing by the Engineer, or shall contravene the provisions of the Contract, then the Purchaser shall have full power, without vitiating the Contract, to take the Works wholly or in part out of the hands of the Contractor, to engage or employ any other person or workmen, and to procure all requisite materials and implements for the due execution and completion of the said Works and the costs and charges incurred by the Purchaser in so doing shall be ascertained by the Engineer and be paid for or allowed to the Purchaser by the Contractor, and it shall be competent for the Purchaser to deduct the amount of such costs and charges out of any sum or sums due or to become due from him to the Contractor under this or any other Contract, or to recover by action at law or otherwise.

Negligence on the part of the Contractor.

For the purpose of so completing the work the Purchaser shall have the right to use all materials, tools, tackle and other apparatus brought by the Contractor on to the site and in the event of the balance due to the Contractor not being sufficient to meet the cost of completing the work in accordance with the Contract the Purchaser may sell the said tools, tackle and other apparatus and apply the proceeds towards the payment of such difference and costs of and incidental to such sale, any balance as well as any material, tools, tackle or apparatus not sold being returned to the Contractor on the completion of the Works.

23. Subject to any special provision in the Contract and Specification, the Purchaser shall give the Contractor facilities for carrying on the work on the site continuously during the normal working hours in the district.

40 Hours of Working.

Where, owing to the default of the Contractor, or when so specified, it may be necessary for the work to be carried on at other than normal working hours, he shall so carry on the work without additional payment, but otherwise shall not be required to work at other than the ordinary working hours without receiving payment for the extra cost involved.

24. The Engineer or his duly appointed representative shall have access at all reasonable times to such parts of the Contractor's or Sub-contractor's works as may be necessary for the purpose of inspecting, examining and testing the materials, workmanship and performance of the plant.

Except where otherwise provided in the Contract, the Contractor shall provide all labour, materials, power, fuel, stores, apparatus and properly calibrated and certified instruments for carrying out necessary tests at his own or his Sub-contractor's Works.

The Contractor shall give the Engineer written notice when any portion of the plant is ready for test, and if the Engineer does not himself, or through his representative, attend to witness the test within seven days from the receipt by him of such notice, then the Contractor may proceed with the tests, duly forwarding to the Engineer certified copies of the results obtained.

In such case the test shall be deemed to have been made in the Engineer's presence.

25. When the plant is ready for delivery the Contractor shall inform the Engineer in writing and shall not forward the material or plant until the Engineer has notified him that the Purchaser is ready to take delivery.

The Purchaser shall give the Contractor all reasonable facilities for delivery of the plant on site.

25 Unless otherwise stated in the Contract, the Contractor shall be entitled to the reasonable use of any crane or traveller on the site up to its rated load, but such use shall be solely on his own responsibility.

26. The Contractor is to be held entirely responsible for all damage done to the "Works" until taken over by the Purchaser on the certificate of the Engineer, whether such damage be wilful or due to carelessness on the part of any person or persons or to any other cause whatsoever, excepting only wilful or accidental damage on the part of any person in the employment of the Purchaser or damage due to the default of any such person, and except damage due to any cause over which neither the Purchaser nor the Contractor have any control.

27. The Contractor is to insure the whole of the plant or Works executed as well as all materials and temporary structures supplied or erected by him against all risks of fire, loss, theft or accident during delivery and erection and until such time as the plant is taken over by the Purchaser. The policy is to be for an amount and in an office approved by the Purchaser, and the policy and receipts for the premium shall be produced when so required by the Engineer.

28. In carrying out the provisions of the Contract the Contractor shall, by insurance or otherwise to the satisfaction of the Purchaser, until the plant be taken over, save and indemnify the Purchaser from all damage or injury occasioned to any person whosoever or to any property of the Purchaser or of others by the negligence of the Contractor or his servants, or by defective design, workmanship or materials, but not otherwise, including all claims by persons employed by the Contractor for compensation under the Workman's Acts, the Employer's Liability Act (1880) and at Common Law, and he shall at his own expense repair and make good such damaged property or compensate personal injury, but he shall not be liable for any loss of profits or loss of contracts, or for any claims against the Purchaser not already provided for hereunder nor for any damage or injury caused by or arising from the Acts of the Purchaser, or due to circumstances over which the Contractor has no control.

29. Except when specially provided for in the Contract, the Contractor shall be allowed all reasonable expenses incurred in slowing down or suspending the work by order of the Engineer unless such slowing down or suspension is caused by the nature of the work, by weather conditions or by some default on the part of the Contractor.

30. Where the Contract provides for tests on site the Contractor shall, unless otherwise provided in the Specification, provide all necessary duly certified instruments, labour and material required for the purpose of the test, and all fuel, oil and accessories required for any trial runs and for the test until the prescribed tests have been passed to the satisfaction of the Engineer, subject nevertheless to the Contractor being reimbursed by the Purchaser for any fuel, oil or accessories used whilst the plant was in commercial use by the Purchaser, although it had not yet passed the final test.

In the event of the plant not so passing the tests the Purchaser shall be at liberty to deduct from the contract price all reasonable expenses incurred by him or the Engineer in repeating the tests.

31. The plant when erected on the site shall be deemed to have been taken over by the Purchaser when the Engineer shall have certified in writing that the plant has sufficiently fulfilled the contract conditions for this purpose, and such certificate shall not be unreasonably withheld, nor shall the Engineer delay the issuing of his taking-over certificate on account of minor omissions or defects, which do not affect the commercial use of the plant without serious risk, provided always that the Contractor undertakes to make good such omissions and defects at the earliest possible moment. In the event of the refusal of the Engineer to grant such a certificate when called upon by the Contractor so to do, this refusal shall be put in writing and be subject to appeal under the Arbitration Clause herein contained.