

**AMENDMENTS TO GDLA '82 (re-printed 18<sup>th</sup> June 2003)**

**REVISED FAIR WAGES CLAUSE AND RELEVANT COMPLIANCE CERTIFICATES**

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## AMENDMENTS TO CLAUSE 39 OF GDLA '82 (re-printed 18<sup>th</sup> June 2003)

### Clause 39:- FAIR WAGES

#### Delete

Delete title and the wording of clause 39 on pages 20 and 21 of GDLA '82 (re-printed 18<sup>th</sup> June 2003) from the words "In the execution of this contract" down as far as "binding upon the Contractor and Employer".

#### Insert new clause title and wording

##### **39. Pay and Conditions of Employment**

39.1. The Contractor shall prominently exhibit copies of this clause 39 for the information of persons at the Site. In this clause 39 **work person** means an individual employed by (or otherwise working for) the Contractor or the Contractor's Personnel on or adjacent to the Site. **Contractor's Personnel means the Contractor's representative, supervisor and sub-contractors, employees, and other persons working on or adjacent to the site for the contractor or sub-contractors or other persons assisting the Contractor to perform the Contract.**

39.2. The Contractor shall ensure that the rates of pay and the conditions of employment (including in relation to pension contributions) of each work person comply with all applicable Law, and that those rates and conditions are no less favourable than those for the relevant category of work person in any employment agreements registered under the Industrial Relations Acts 1946 to 2004.

39.3. The Contractor shall

(1) in respect of work persons employed by (or otherwise working for) the Contractor do all the following; and

(2) in respect of all other work persons, ensure that the employers (or the persons for whom they are working) do all of the following:

- (a) pay all wages and other money due to each work person
- (b) ensure that work persons' wages are paid in accordance with the Payment of Wages Act 1991 and are never more than 1 month in arrears or unpaid
- (c) pay all pension contributions and other amounts due to be paid on behalf of each work person
- (d) make all deductions from payments to work persons required by Law, and pay them on as required by Law
- (e) keep proper records (including time sheets, wage books and copies of pay slips) showing the wages and other sums paid to, and the time worked by, each work person, deductions from each work person's pay and their disposition, and pension and other contributions made in respect of each work person, and produce these records for inspection and copying by any persons authorised by the Employer, whenever required by the Employer
- (f) produce any other records relating to the rates of pay, pension and other contributions, deductions from pay and their disposition, conditions of employment of work persons, and rest periods and annual leave for inspection and copying by any persons authorised by the Employer, whenever required by the Employer
- (g) respect the right under law of work persons to be members of trade unions
- (h) observe, in relation to the employment of work persons on the site, the Safety, Health and Welfare at work Act 2005 and all employment law including the Employment Equality Act 1998, the Industrial Relations Acts 1946 to 2004, the National Minimum Wage Act 2000, regulations, codes of practice, legally binding determinations of the Labour Court and registered employment agreement under those laws.

39.3(A) The Employer shall be entitled to make random checks requiring production of records under sub-clauses 39.5 and 39.6.

39.4. If the Employer so requests, the Contractor shall, within 5 days after the receipt of the request, give to the Employer a statement showing the amount of wages and other payments due at the date of the request to and in respect of each work person.

39.5. The Employer may seek information under clause 39 only for the purpose of ensuring the obligations described herein to work persons have been properly discharged. All information provided under clause 39 shall be returned to the person providing them or destroyed if the Employer is satisfied that the relevant employer has complied with legal obligations to work persons.

39.6. If the Contractor or any nominated subcontractor has not complied with this clause 39, the Employer shall [without limiting its other rights or remedies] be entitled to estimate the amount that should have been paid to work persons (and contributions that should have been made on their behalf), and the Employer may deduct the estimated amount from any payment due to the Contractor, until the Employer is satisfied that all proper amounts have been paid.

39.7. The Contractor shall give the Architect with each interim statement under sub-clause 35, a certificate (in the form as set out hereafter) that the Contractor has complied in full with this clause 39 and a further certificate from each nominated subcontractor on whose behalf additional payment is being sought in the particular interim statement confirming that the subcontractor has complied in full with the requirements of this clause 39.

39.8. If the Contractor, or any other party falling within the Contractor's responsibility in accordance with clause 39.1, does not comply with this clause the Contractor shall pay to the Employer any costs the Employer incurs in investigating and dealing with the non-compliance. Where such costs arise from the default of a nominated subcontractor, the Contractor shall be entitled to recover costs thus deducted from the non-compliant nominated subcontractor.

**Note: *Sub-clause 39.3(A) shall be struck out if the Employer does not propose to make random checks to confirm compliance with Clause 39.***

**AMENDMENTS TO CLAUSE 35 OF GDLA '82 (re-printed 18<sup>th</sup> June 2003)**

**Insert new paragraphs at the end of Clause 35(a)(i)**

Line 13, clause 35(a)(i) - after the words “explanation of the difference” insert the following paragraphs:

If the Contractor has not complied with Clause 39 the Employer shall be entitled to make the deduction provided for in sub-clause 39.6.

If the Contractor does not give the certificates required by sub-clause 39.7 with an interim statement there shall be no payment due under sub-clause 35(a)(i) in respect of the relevant Work Item until the certificate is given.

**Insert new sub-clause 35(h)**

After the words “in accordance with the terms of the contract” on the last line of page 18 insert new sub-clause 35(h) as follows:

Deductions from payments because of obligations that the Contractor, and / or any nominated subcontractor, has still not complied with by the date of the end of the Defects Liability Period shall be deducted from the Contract Sum. In the case of a deduction from the Contract Sum because of failure to give the certificate required by sub-clause 39.7 the amount deducted shall be the portion of the Contract value of the relevant Work Item that the Employer determines to be the labour portion. The Contractor and the nominated subcontractors shall give the Employer any information the Employer requires for this determination.

Signature of Employer .....

Date:-.....

Signature of Contractor:-.....

Date:-.....

**MAIN CONTRACTOR**

**RATES OF PAY AND CONDITIONS OF EMPLOYMENT COMPLIANCE CERTIFICATE-  
certificate to be submitted with each progress statement under Clause 35**

To [Name of Employer] \_\_\_\_\_

[Name of Contract] \_\_\_\_\_

[Progress statement up to date of] \_\_\_\_\_

Sirs,

We refer to the above contract. Terms used in this letter that are defined in the Conditions of Contract have the same meaning in this certificate

The Contractor hereby certifies that, in respect of the work to which the interim certificate above relates, clause 39 of the Contract has been observed by the Contractor and the employers of all work persons on the Site. This Certification includes, but is not limited to the following:

- the rates of pay and conditions of employment (including in relation to pension contributions) of each work person comply with all applicable statutory provisions, and that these rates and conditions have been no less favourable than those of the relevant category of work person in any employment agreements registered under the Industrial Relations Acts 1946 to 2004
- all wages and other money due to each work person (including pension contributions where applicable) have been paid
- all wages and other money due to each work person have been paid in accordance with The Payment of Wages Act 1991 and have not been more than 1 month in arrears or unpaid
- payments due to be paid on behalf of each work person (including pension contributions where applicable) have been paid
- all pension contributions and other amounts due to be paid of behalf of each work person, have been paid.
- all deductions from payments to work persons required by law have been made and paid on, as required by Law
- in relation to the employment of work persons on the site, the Safety, Health and Welfare at Work Act 2005 and all employment law including the Employment Equality Act 1998, the Industrial Relations Acts 1946 to 2004, the Minimum Wage Act 2000, regulations, codes of practices, legally binding determinations of the Labour Court and registered agreements under those Laws have been observed.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Contractor's Representative, on behalf of:

\_\_\_\_\_ *{name of Contractor}*

**NOMINATED SUBCONTRACTOR**

**RATES OF PAY AND CONDITIONS OF EMPLOYMENT COMPLIANCE CERTIFICATE-  
certificate to be submitted with each progress statement under Clause 35**

To [Name of Contractor] \_\_\_\_\_

[Name of Contract] \_\_\_\_\_

[Subcontract for] \_\_\_\_\_

[Progress statement up to date of] \_\_\_\_\_

Sirs,

We refer to the above contract. Terms used in this letter that are defined in the Conditions of Contract have the same meaning in this certificate

The subcontractor hereby certifies that, in respect of the work to which the interim certificate above relates, clause 39 of the Contract has been observed by the subcontractor. This Certification includes, but is not limited to the following:

- the rates of pay and conditions of employment (including in relation to pension contributions) of each work person comply with all applicable statutory provisions, and that these rates and conditions have been no less favourable than those of the relevant category of work person in any employment agreements registered under the Industrial Relations Acts 1946 to 2004
- all wages and other money due to each work person (including pension contributions where applicable) have been paid
- all wages and other money due to each work person have been paid in accordance with The Payment of Wages Act 1991 and have not been more than 1 month in arrears or unpaid
- payments due to be paid on behalf of each work person (including pension contributions where applicable) have been paid
- all pension contributions and other amounts due to be paid of behalf of each work person, have been paid.
- all deductions from payments to work persons required by law have been made and paid on, as required by Law
- in relation to the employment of work persons on the site, the Safety, Health and Welfare at Work Act 2005 and all employment law including the Employment Equality Act 1998, the Industrial Relations Acts 1946 to 2004, the Minimum Wage Act 2000, regulations, codes of practices, legally binding determinations of the Labour Court and registered agreements under those Laws have been observed.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Subcontractor's Representative, on behalf of:

\_\_\_\_\_ {name of Subcontractor}