



**MODEL CERTIFICATES AND OTHER FORMS
for use with
JCLI LANDSCAPE MAINTENANCE WORKS CONTRACT 2012
(JCLI LMWC 2012)**

June 2012

1 INTRODUCTION

This document includes model forms with guidance notes to assist Landscape Architects/Contract Administrators in producing the documents the Landscape Architect/Contract Administrator is required to produce by the JCLI Landscape Maintenance Works Contract 2012 Edition on their own forms. In the interests of standardisation Landscape Architects/Contract Administrators should use the basic layout and format of the model forms.

The 2012 editions of the JCLI Contracts change the procedures associated with payment of the Contractor considerably and therefore result in revisions to previous guidance and payment certificates as well as additional forms. These changes result from the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA), the Construction part of which came into force on 1 October 2011 and amends the Construction part of the Housing Grants Construction and Regeneration Act 1996 (HGCRA). See also JCLI Practice Note No 9 Revision 1, June 2012

The periods of days stated in JCLI LWC and LWCD and below include weekends (but exclude public holidays).

2 GUIDANCE NOTES ON MODEL FORMS

A General

- A1 "Contract dated": in some situations it will be more appropriate to use "Letter of Acceptance dated"
- A2 Distribution: modify list as appropriate for particular project or even for particular document.
- A3 Add information as necessary, e.g. Employer's project reference number...
- A4 If appropriate, revise "we" to "I"
- A5 In order for the sums to work easily on all forms and in accordance with standard practice, any annual contingency sum (or appropriate proportion of the total contingency sum) should be omitted on the first instruction in each year.
- A6 Use either "Landscape Architect" or "Contract Administrator" as appropriate

B Landscape Architect's/Contract Administrator's Instruction

- B1 Add "Approximate" before "Value of previous instructions", "Value of this instruction" and "Adjusted Annual Sum" if exact values are not known (particularly where a quantity surveyor is involved).
- B2 Serial No: Instructions should be worded to only apply to one annual account period and the numbering should indicate the account period, e.g. YR1/No, i.e. YR1/01, YR1/02, YR1/03, ..., YR2/01, YR2/02....
- B3 Where the contract sum is a lump sum divided as stated in Article 2 the "Amount of Annual Sum" should include any applicable inflation adjustment.
- B4 The "Value of previous instructions" should only include instructions for the current annual account period.

C Periodic Payment Certificate

- C1 Due dates for payments are regular on the same date of the month as commencement, whether monthly or quarterly (or otherwise as stated in the Contract Particulars against clause 4.2.1), and if that date in any particular month does not exist (eg 31st) then the last day of that month (typically 30th except in February); as stated in clause 4.2.1.

- C2 Certificates must be issued within 5 days of the due date for payment. A certificate must be issued even if the amount due is £0. Any certificate issued late will be invalid (unless agreed otherwise by the Contractor and Employer). The final date for payment is 14 days after the due date.
- C3 **If the Employer wishes to deduct anything from the amount certified** (eg a 'contra-charge' for damage caused by the Contractor but repaired by others) a payless notice must be issued by the Landscape Architect/Contract Administrator at least 5 days before the final date for payment in accordance with clause 4.3.4. Only include such deductions on a payless notice after receiving written authorisation from the Employer for each individual deduction with the reason for each individual deduction. The amount due on the payless notice must be the amount due at the date of the notice rather than at the due date. The need to revalue the work done at the date of the payless notice can be avoided if the certificate and payless notice are both issued on the due date, but the payless notice must not be issued before the certificate. A payless notice could therefore actually be a 'paymore' notice. See section D below.
- C4 **If any certificate is not issued on time** the Contractor can issue a notice under clause 4.3.2 stating how much was due at the due date calculated in accordance with clauses 4.2.1.1 and 4.2.1.2. The Contractor's notice can be issued at any time after the certificate should have been issued. The final date for payment is extended by the number of days between the end of the 5 day period during which the certificate should have been issued and the date of the Contractor's notice. Hence, unless the 14 day period between the due date and the final date for payment has been revised in the particular project contract, payment of the Contractor's notice is due 9 days after the date of the notice but a payless notice can be issued within 4 days of the Contractor's notice. See section D below. If an interim certificate is not issued on time, issuing certificates for payment cannot recommence until a Contractor's notice is issued by the Contractor unless the Contractor and Employer agree otherwise.
- C5 Serial No: numbering should reflect the annual account period, e.g. YR1/01 to YR1/12, YR2/01 etc.
- C6 The amended HGCRA requires certificates to state the basis of the calculation of the amount due. The valuation of work properly executed calculated in accordance with clause 4.2.1.1 should be issued with the certificate. If the valuation is simple it could be included on the certificate, e.g. 1/12 of annual sum + x% inflation adjustment. If Option A in Article 2 applies and the annual sum includes any provisional sums (eg contingency) deduct the provisional sums before apportioning the annual sum, unless the provisional sums have been omitted on instructions applicable to that year.
- C7 "This is not a Tax Invoice" should always be included.

D Payless Notice (Type M1)

- D1 Payless notices are issued by the Landscape Architect/Contract Administrator on behalf of the Employer, only if the Employer wishes to deduct something from the amount due on a payment certificate or on a Contractor's notice, or to reduce the amount the Contractor claims on a Contractor's notice. The amended HGCRA requires payless notices to state the basis of the calculation of the amount due at the date of the notice. See also C3 and C4 above.
- D2 Delete the red statement on the model notice.
- D3 **Payless Notice (Type M1) is a payless notice either against a Periodic Certificate, or against a Contractor's payment notice issued because a Periodic Certificate has not been issued on time.** See clause 4.3.4. It can be used to deduct both items which are not deducted on certificates, eg. contra-charges, and also items normally deducted on certificates (eg liquidated damages) as well as to reduce the amount on a Contractor's payment notice. Only include contra-charges or similar deductions on a payless notice after receiving written authorisation from the Employer for each individual deduction with the reason for each individual deduction.
- D4 Payless notices are for the amount due at the date of the notice and this means that there will be a difference between the Valuation for the payless notice (at the date of the notice) and the Valuation on the certificate or on the Contractor's notice (at the due date in both cases). **To avoid revaluing for a payless notice against a certificate issue both the payless notice and the certificate on the due date for payment** (but the notice must not be issued before the certificate). Issuing the certificate and notice together is also more likely to avoid the situation where the Employer receives invoices from the Contractor for both the certified amount and the payless notice amount. A valuation at the date of the payless notice against a Contractor's notice cannot be avoided.
- D5 Any revaluation for a payless notice issued at the beginning of, or after the end of, an annual account period against a certificate or Contractor's payment notice applicable to that annual account period **must not** include any work undertaken during the previous, or subsequent, annual account period (see clauses 4.2.2 and 4.2.3).
- D6 **Note that the amount on the payless notice is paid by the Employer instead of the amount certified on the certificate which the payless notice is issued against, or the amount on the Contractor's notice which the payless notice is issued against. When issuing the documents advise the Contractor which to invoice and the Employer which to pay.**

- D7 Delete one of the “*either*” “*or*” statements (three times) as appropriate for the circumstance and delete the red “*either*” and “*or*” (both three times).
- D8 Complete details of the liquidated damages and contra-charge items and delete either item if it is not applicable.
- D9 In some circumstances it will be necessary to deduct other items in order to adjust the amount to be paid to the amount that is actually due. For example if two consecutive certificates have not been issued on time and a payless notice was not issued against the first Contractor’s notice then the payless notice against the second Contractor’s notice must deduct the amount on the first Contractor’s notice (which the Employer should have already paid). Always calculate exactly how much is due to the Contractor and ensure the payless notice is for that amount.
- D10 The first item on the form “Value of work executed since the last periodic certificate” equals the value deducted on the next periodic certificate under clause 4.2.1.2.3
- D11 “This is not a Tax Invoice” should always be included.

E Annual Certificate

- E1 The due date for the final certificate for the annual account period (the Annual Certificate) is 28 days after the date the necessary documentation to compute it is received from the Contractor. The Annual Certificate has to be issued within 5 days of the due date. A certificate must be issued even if the amount due is £0. A certificate issued late will be invalid (unless agreed otherwise by the Contractor and Employer). The final date for payment is 14 days after the due date. The amended HGCRA requires certificates to state the basis of the calculation of the amount due. The annual certificate must only include items relevant to the account period. See clauses 4.4.1, 4.4.2 and 4.4.3
- E2 **If the payer wishes to deduct anything from the amount certified** (eg a contra-charge if the payer is the Employer) a payless notice must be issued at least 5 days before the final date for payment (see clause 4.4.4). The revaluation problem identified in C3 above will not be an issue with a payless notice against an Annual Certificate but it is preferable if the payless notice is issued at the same time as the certificate (but the notice must not be issued before the certificate). The model Payless Notice (Type M2) is appropriate for this situation.
- E3 **If the certificate is not issued on time** the Contractor can issue a notice under clause 4.4.5.1 at any time after the certificate should have been issued stating how much is due. The final date for payment is extended by the number of days between the end of the 5 day period during which the certificate should have been issued and the date of the Contractor’s notice. Hence, unless the 14 day period between the due date and the

final date for payment has been revised in the particular project contract, payment of the Contractor's notice is due 9 days after the date of the notice but a payless notice can be issued within 4 days of the Contractor's notice (see clauses 4.4.5.2 and 4.4.5.3). The model Payless Notice (Type M3) is appropriate for this situation.

- E4 The value of work properly executed during the account period should include: the value of any work done on instructions (see clauses 3.6 and 3.7); any inflation adjustment (see clause 4.9) and/or contribution, levy or tax change adjustments (see clause 4.10); and any amount due for suspension by the Contractor (see clause 4.6.3); all only as applicable to the account period. The breakdown of the value of work properly executed should be stated on an 'Annual Account' prepared by the Contract Administrator and if possible agreed by the Contractor. If Option A in Article 2 applies and the annual sum includes any provisional sums (eg contingency) deduct the provisional sums, unless the provisional sums have been omitted on instructions applicable to that year.
- E5 If applicable a breakdown of the liquidated damages should be issued with the certificate.
- E6 Delete bonus item if clause 4.8 does not apply and delete the liquidated damages item if there is no Schedule of Liquidated Damages.
- E7 The amount due on an Annual Certificate might be negative in which case the Contractor must pay the Employer but the Contractor may issue a payless notice under clause 4.4.4. If the amount due is negative revise the last statement on the model certificate by reversing the locations of "Employer" and "Contractor".
- E7 "This is not a Tax Invoice" should always be included.

F Payless Notice (Type M2)

- F1 Payless notices are issued by the Landscape Architect/Contract Administrator on behalf of the Employer, only if the Employer wishes to deduct something from the amount due on a payment certificate or on a Contractor's notice, or to reduce the amount the Contractor claims on a Contractor's notice. The amended HGCRA requires payless notices to state the basis of the calculation of the amount due. See also C3 and C4 above.
- F2 Delete the red statement on the model notice.
- F3 **Payless Notice (Type M2) is a payless notice against an Annual Certificate and can be used to deduct both items which are not deducted on certificates, eg. contra-charges and also items normally deducted on certificates (eg liquidated damages).** See clause 4.4.4. Only include contra-charges or similar deductions on a payless notice

after receiving written authorisation from the Employer for each individual deduction with the reason for each individual deduction.

- F4 Any revaluation for a payless notice issued after the end of an annual account period against the annual certificate applicable to that annual account period **must not** include any work undertaken during the subsequent annual account period.
- F5 **Note that the amount on the payless notice is paid by the Employer instead of the amount certified on the certificate which the payless notice is issued against. Advise the Contractor which to invoice and the Employer which to pay when issuing the documents.** However the amount due on the notice might be negative in which case the Contractor will owe the Employer the amount on the notice. If it is negative, reverse the locations of “Employer” and “Contractor” in the last statement on the model notice.
- F6 Complete details of the liquidated damages and contra-charge items and delete either item if it is not applicable.
- F7 “This is not a Tax Invoice” should always be included.

G Payless Notice (Type M3)

- G1 Payless notices are issued by the Landscape Architect/Contract Administrator on behalf of the Employer, only if the Employer wishes to deduct something from the amount due on a payment certificate or on a Contractor’s notice, or to reduce the amount the Contractor claims on a Contractor’s notice. The amended HGCR requires payless notices to state the basis of the calculation of the amount due. See also C3 and C4 above..
- G2 Delete the red statement on the model notice.
- G3 **Payless Notice (Type M3) is a payless notice against a Contractor’s payment notice issued if an Annual Certificate has not been issued on time and can be used to deduct both items which are not deducted on certificates, eg. contra-charges and also items normally deducted on certificates (eg liquidated damages), as well as to reduce the amount on the Contractor’s payment notice.** See clause 4.4.5.3. Only include contra-charges or similar deductions on a payless notice after receiving written authorisation from the Employer for each individual deduction with the reason for each individual deduction.
- G4 Any revaluation for a payless notice issued after the end of an annual account period against a Contractor’s payment notice applicable to that annual account period **must not** include any work undertaken during the subsequent annual account period.

- G5 **Note that the amount on the payless notice is paid by the Employer instead of the amount certified on the Contractor's payment notice which the payless notice is issued against. Advise the Contractor which to invoice and the Employer which to pay when issuing the documents.** However the amount due on the notice might be negative in which case the Contractor will owe the Employer the amount on the notice. If it is negative, reverse the locations of "Employer" and "Contractor" in the last statement on the model notice.
- G6 This type of payless notice is calculated in the same way as an Annual Certificate and E4, 5 and 6 above apply to the calculation.
- G7 "This is not a Tax Invoice" should always be included.

Care has been taken in preparing this document but it should not be treated as a definitive legal interpretation or commentary. Users are reminded that the effect in law of the provisions of the Landscape Maintenance Works Contract 2012 Edition is, in the event of a dispute as to that effect, a matter for decision in adjudication, arbitration or litigation.

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

Association of Professional Landscapers
British Association of Landscape Industries
Institute of Chartered Foresters
Landscape Institute
Society of Garden Designers



Published for the JCLI Contracts Forum by the Landscape Institute
Charles Darwin House 12 Roger Street London WC1N 2JU

Available to download free from the Landscape Institute web-site
www.landscapeinstitute.org

© Landscape Institute June 2012

COMPANY LETTERHEAD

LANDSCAPE ARCHITECT'S/CONTRACT ADMINISTRATOR'S
INSTRUCTION

Project:
Works: Landscape Maintenance
situated at:

Serial No: YRx/xx

Reference:

Employer:
address:

Issue date:

Contractor:
address:

Contract dated:

Sheet: of

Under the terms of the above Contract, we issue the following instructions:

Item No		£ omit	£ add
for information only			

Signed: _____ Landscape Architect/Contract Administrator

Distribution:	Amount of Annual Sum (Year x)	£
Employer ()	Value of previous instructions(Year x)	£ _____
Contractor ()		£
Quantity Surveyor ()	Value of this instruction	£ _____
Project Manager ()	Adjusted Annual Sum (Year x)	£
CDM Co-ordinator ()		
File ()		

COMPANY LETTERHEAD

PERIODIC PAYMENT CERTIFICATE

Project: **Serial No:** YR x / xx
Works: Landscape Maintenance
situated at: **Reference:**
Employer: **Issue Date:**
address: **Contract Dated:**
Contractor: **Valuation Dated:**
address: **Final Date for Payment:**

Value of work properly executed between $xx/xx/xxxx$ and $yy/yy/yyyy$ as clause 4.2.1.1	£	_____
Less liquidated damages as clause 4.2.1.2.1 (<i>list individual items and amounts here or refer to attached list</i>)	£	
Less any Valuations on Contractor's payment notices issued since the last Periodic Certificate, as varied by the Valuations on any payless notices if issued against the Contractor's payment notices, as clause 4.2.1.2.2	£	
Less the difference between the Valuation on a payless notice issued against the previous Periodic Certificate and the Valuation on that Periodic Certificate, as clause 4.2.1.2.3	£	_____
TOTAL	£	

We certify that under the terms of the above Contract the amount for payment by the Employer to the Contractor on this certificate is **xxxx thousand xxxx hundred and xxxx pounds and xxxx pence** (exclusive of VAT).

Signed _____ **Landscape Architect/Contract Administrator**

This is not a Tax Invoice

Distribution: Employer (), Contractor (), Quantity Surveyor (), Project Manager (), CDM Co-ordinator (), File ()

COMPANY LETTERHEAD

PAYLESS NOTICE (Type M1)

Project: _____ Serial No: YRx/xx
Works: Landscape Maintenance Reference: _____
Situated at: _____ Issue Date: _____
Employer: _____
address: _____
Contract Dated: _____
Contractor: _____
address: _____ Final Date for Payment: _____

This notice is only for use when issuing a payless notice against a Periodic Certificate or a Contractor's payment notice issued because a Periodic Certificate was not issued on time. Before using this notice read the guidance in section D of the Model Forms document

Under the terms of the above Contract, we issue this payless notice against **either** Periodic Certificate No YRx/xx **or** Contractor's payment notice No xx dated xx/xx/xxxx

Value of work executed during the period since the last periodic certificate £ _____
Less liquidated damages for that period in accordance with clause 4.7 £ _____
(list individual items and amounts here or refer to attached list)
Less (list contra-charge(s) with details or delete item) £ _____

TOTAL AMOUNT DUE INSTEAD OF THE AMOUNT £
Either* CERTIFIED ON CERTIFICATE No YRx/xx *Or
ON CONTRACTOR'S PAYMENT NOTICE No xx dated xx/xx/xxxx

We give notice that under the terms of the above Contract the amount for payment by the Employer to the Contractor on this payless notice instead of the amount **either** on Certificate No YRx/xx **or** on Contractor's notice No xx dated xx/xx/xxxx is **xxxx thousand xxxx hundred and xxxx pounds and xxxx pence** (exclusive of VAT).

Signed _____ Landscape Architect/Contract Administrator

This is not a Tax Invoice

Distribution: Employer (), Contractor (), Quantity Surveyor (), Project Manager (),
CDM Co-ordinator (), File ()

COMPANY LETTERHEAD

ANNUAL CERTIFICATE

Project:
Works: Landscape Maintenance
situated at:

Serial No: YRx/xx

Reference:

Issue Date:

Employer:
address:

Contract Dated:

Contractor:
address:

Final Account Dated:

Final Date for Payment:

Value of work executed during the account period xx/xx/xxxx to yy/yy/yyyy as clause 4.4.2.1 £

x% bonus on the value of the work executed during the account period in accordance with clause 4.8 £

Total

Less liquidated damages applicable to the account period as clause 4.4.2.3.1 (list individual items and amounts here or refer to attached list) £

Less other sums deducted on payless notices applicable to the account period as clause 4.4.2.3.2 (list individual items and amounts here or refer to attached list) £

Less amounts due to the Contractor applicable to the account period as clause 4.4.2.3.3 £

Total £

TOTAL £

We certify that under the terms of the above Contract the amount for payment by the Employer to the Contractor on this certificate is xxxx thousand xxxx hundred and xxxx pounds and xxxx pence (exclusive of VAT).

Signed Landscape Architect/Contract Administrator

This is not a Tax Certificate

Distribution: Employer (), Contractor (), Quantity Surveyor (), Project Manager ()
CDM Co-ordinator (), File ()

COMPANY LETTERHEAD

PAYLESS NOTICE (Type M2)

Project:
Works: Landscape Maintenance
Situated at:

Serial No: YRx/xx

Reference:

Employer:
address:

Issue Date:

Contractor:
address:

Contract Dated:

Final Date for Payment:

This notice is only for use when issuing a payless notice against an Annual Certificate. Before using this notice read the guidance in section F of the Model Forms document

Under the terms of the above Contract, we issue this payless notice against Annual Certificate No YRx/xx.

Amount certified on Annual Certificate No YRx/xx	£	_____
Less <i>(list contra-charge(s) with details)</i>	£	
Less <i>(list anything else or delete)</i>	£	_____

**TOTAL AMOUNT DUE INSTEAD OF THE AMOUNT £
CERTIFIED ON Annual Certificate No YRx**

We give notice that under the terms of the above Contract the amount for payment by the Employer to the Contractor on this payless notice instead of the amount on Annual Certificate No YRx is **xxxx thousand xxxx hundred and xxxx pounds and xxxx pence** (exclusive of VAT).

Signed _____ **Landscape Architect/Contract Administrator**

This is not a Tax Invoice

Distribution: Employer (), Contractor (), Quantity Surveyor (), Project Manager (),
CDM Co-ordinator (), File ()

COMPANY LETTERHEAD

PAYLESS NOTICE (Type M3)

Project: **Serial No:** YRx/xx
Works: Landscape Maintenance
Situated at: **Reference:**
Employer: **Issue Date:**
address:
Contract Dated:
Contractor: **Final Date for Payment:**
address:

This notice is only for use when issuing a payless notice against a Contractor's notice issued if an Annual Certificate has not been issued on time. Before using this notice read the guidance in section G of the Model Forms document

Under the terms of the above Contract, we issue this payless notice against Contractor's payment notice No xx dated xx/xx/xxxx.

Value of work executed during the account period xx/xx/xxxx to yy/yy/yyyy as £
clause 4.4.2.1

x% bonus on the value of the work executed during the account period in £
accordance with clause 4.8

Total _____

Less liquidated damages applicable to the account period as clause 4.4.2.3.1 (*list* £
individual items and amounts here or refer to attached list)

Less other sums deducted on payless notices applicable to the account period as £
clause 4.4.2.3.2 (*list individual items and amounts here or refer to attached list*)

Less amounts due to the Contractor applicable to the account period as clause £
4.4.2.3.3

Total £ _____

TOTAL AMOUNT DUE INSTEAD OF THE AMOUNT £
ON CONTRACTOR'S PAYMENT NOTICE No xx dated xx/xx/xxxx

We give notice that under the terms of the above Contract the amount for payment by the Employer to the Contractor on this payless notice instead of the amount on Contractor's payment notice No xx dated xx/xx/xxxx is **xxxx thousand xxxx hundred and xxxx pounds and xxxx pence** (exclusive of VAT).

Signed _____ **Landscape Architect/Contract Administrator**

This is not a Tax Invoice

Distribution: Employer (), Contractor (), Quantity Surveyor (), Project Manager (),
CDM Co-ordinator (), File ()