

General Conditions of Contract

for

The Proposed Concert Hall
at Ringwood

Referred to in a CONTRACT dated the Thirteenth (13th)
day of March One thousand nine hundred

and Thirty six and made between J. F. Taylor &
Sons Proprietary Limited

of the one part and The Mayor, Councillors and Burgess
of Ringwood of the other part.

Contractor to
provide labor and
material.

1. All labor, scaffolding, hoarding, barricades, machinery, tools and materials necessary for the carrying on to completion of the works, to be provided, fixed and maintained by the Contractor at his own risk and expense, unless where distinctly specified to the contrary, and the consideration money mentioned in the contract shall subject to these Conditions of Contract be deemed to be the contract price, and shall be accepted by the Contractor in full satisfaction and discharge for all work done under this contract.

Contractor to
provide all else
necessary.

2. The Contractor is to provide everything of every sort and kind, which, in the opinion of the Architect, may be necessary and requisite for the execution of the several works included in the Contract in a substantial and workmanlike manner according to the true intent and meaning of the drawings and specification taken either separately or altogether (which are to be signed by the Architect and Contractor), and whether the same may or may not be particularly described in the specification or shown on the drawings, provided that the same are reasonably and obviously to be inferred therefrom, and whether there be any discrepancy between the drawings and specification or not. Subject to the provisions of Clause 29 hereof, the decision of the Architect as to the true intent and meaning of the drawings and specification shall be final.

Figured
Dimensions.

3. Wherever the dimensions are written or figured upon the drawings, or in the specifications, such dimensions shall be taken as correct, although they may not correspond with the measurement by the scale, which is only to be used when no written dimensions are given; and the drawings to a larger are to be considered as more correct than those to a smaller scale. But where material discrepancies between scale and figured dimensions may be discovered after signing the Contract, the Contractor shall be entitled to be supplied with drawings in which the scale and figured dimensions agree, for the purpose of executing the works of the Contract.

Property in plant
and materials etc.
brought on site.

4. All plant and materials brought upon the premises by the Contractor shall from the time at which they or any of them may be so brought, and during and until the completion of the works, or until the determination of the Contract as provided by Clause 26 hereof, whichever shall first happen, become and be the property of the Proprietor, and the Contractor shall not be entitled to remove the same without the written consent of the Architect until the completion of the works, or until such determination, as the case may be, but the Proprietor is not in any way answerable for any loss or damage which may happen to or in respect of any such plant or materials, either by the same being lost or stolen or destroyed or injured by weather or any other cause.

Contractors to set
out work.

5. The Contractor shall, after the Architect has given the starting points, levels and boundaries, set out accurately at his own expense all the works comprised in this Contract agreeably to the drawings and specifications, and shall be held responsible for being so set out and executed accordingly.

Compliance with
local act and
regulations.

6. The Contractor shall comply in every respect with the provisions of the Borough
of Ringwood Building Regulations and the Melbourne & Metropolitan
Board of Works where applicable, and with all rules, regulations and bye-laws made there-
under respectively and with all local and municipal regulations and bye-laws, and shall
give all notices required to be given by such acts, regulations or bye-laws, and shall pay
all fees and bear all costs connected therewith.

Superintendence
of work.

7. The Contractor shall commence, proceed with, and completely finish the whole of the works under the superintendence of the Architect, and shall permit all persons authorised or appointed by the Architect to visit and inspect the works or any part thereof at all times and places during the progress of the same, and shall provide sufficient, safe and proper facilities for such inspection.

Time of Completion.

8. The works included in the Contract shall be completed and delivered up on or before the fourth day of August 1935 or within the extended and enlarged time hereinafter mentioned; and if the Contractor fail to complete and deliver them up to the Proprietor by that day or time he shall pay to the Proprietor the sum of ten pounds (£10) for each and every week during which the work may remain incompleated or not delivered up beyond the day or time aforesaid (as the case may be), and the Proprietor may deduct such sum from any money due from him to the Contractor, or obtain payment of it in any way he may think fit, and such payment shall be made as and for ascertained liquidated damages for such default and not by way of penalty.

Liquidated Damages.

9. In the event of this work being completed before the above stated time no bonus will be paid by the proprietors unless hereunder stipulated.

Strikes, etc.

10. In the event of any dislocation of any trade in connection with the work, due to strikes or other causes, which in the opinion of the Architect hampers the Contractors in the completion of the Contract within the specified time; the Architect shall have the power to extend the time of completion beyond the aforesaid date to a future date to be fixed by him. In this case the Contractor shall not be entitled to any further payment or compensation for any delay in the event of the above.

Commencement of work.

11. Should the Contractor not commence work upon the site within three days of the date hereof, the contract may be determined and re-let at the risk of the Contractor after seven days' notice in writing from the Architect.

Removal and Replacement of objectionable materials or work.

12. Should any material or workmanship which, in the opinion of the Architect, is of an inferior or different character from that described in the specification, be at any time used in any part of the building, or be delivered on the premises, the Contractor shall immediately cause the same to be removed and satisfactorily replaced; and if upon the Architect giving a written notice to the Contractor to effect any such removal and replacement the same be not carried out within the time mentioned in the notice, the Proprietor shall be at liberty to employ other persons to effect the same, and all such expenses, loss, or damage, as in the opinion of the Architect may have been occasioned thereby, shall be borne by the Contractor, and the amount thereof paid by him, or deducted by the Proprietor from any money that may be or become due to the Contractor on account of this Contract.

Reparation of defects and damages.

13. The Contractor shall repair all defects and damages and bear all risks of accidents happening to the works or any part of them from any cause whatever and shall ensure and keep the same insured until the Contract has been determined as in Clause 26 hereof provided, or until the completion, against loss or damages by fire, in an amount to be approved in the joint names of the Proprietor and Contractor, for one per centum of the contract price, and shall upon request lodge the policies and the receipts for the premiums renewals of such policies with the Architect. In case the contractor neglects after such request to lodge the policies or the receipts for the premiums of such policies with the Architect, the Proprietor shall be at liberty to insure and keep the said works insured and deduct the amount of the premiums paid together with the costs and expenses thereof, from any moneys payable by him to the Contractor, or may sue for and recover the same by process of law. All moneys received under any such policies are to be paid into an account in the joint names of the Proprietor and Contractor and are to be paid from such account to the Contractor as the work of reinstatement proceeds in such sums as the Architect may certify. The work of reinstatement shall be on the same terms and conditions as the original contract itself.

Insurance

Attendance of Contractor

14. The Contractor, either personally or by a foreman or agent approved of by the Architect and qualified to act for him in every respect, shall be continually present upon the works during working hours, and shall attend when required either at the office of the Architect or at the works, to receive orders and to give the necessary instructions to the workmen without making any charge for the same. Any order or notice given by prepaid letter addressed to the Contractor at the address given by him in the Contract, or given or served upon any such foreman or agent, shall be deemed to be served on the Contractor, who will be held personally responsible for the proceedings and acts of such foreman or agent respectively.

Service of motion

Sub-letting.

15. The Contractor shall not sell or assign the execution of the works, or employ a sub-contractor for the execution of the same or any part thereof, without the previous written consent of the Architect.

Clearing Premises.

16. The Contractor shall, at his own expense, clear away from the premises on completion of the works, or when so desired by the Architect, all scaffolding, hoarding, barricades, machinery, implements, tools, materials, and rubbish, which may be thereon.

Access to works and possession.

17. The Proprietor or his Representative is at all times to have free access to the works, and is to have full power to send workmen upon the premises to execute works not included in the Contract, for whose operations the Contractor is to afford every reasonable facility during ordinary working hours, provided that such operation shall be carried on in such manner as not to impede the progress of the works included in the Contract; but the Contractor is not to be responsible for any damage which may happen to or be occasioned by any such works. Possession of the ground or works shall not be deemed to mean that the Contractor is to have exclusive possession, but only a limited possession in order to enable him to perform the works of the Contract.

Alterations—
How made and valued

18. The Architect shall have power from time to time to make alterations in the works as set forth in the drawings and specifications, whether such alterations involve additions to or deductions from the Contract price, and such alterations, additions, or deductions shall be performed by the Contractor, and shall not invalidate the Contract; but the amount and value of the work as altered shall, unless previously to the commencement of the work the same has been fixed and agreed upon by the Contractor and Architect by writing under their hands, be fixed by the Architect, and to be added to or deducted from the Contract price as the cause may require, and such amount and value shall be the limit of the Contractor's claim in respect of such alterations. In fixing the amount of value aforesaid, the Architect will adopt the rates and prices contained in the schedule of prices, if any, which the Contractor has annexed to his tender, so far as the same can, in the opinion of the Architect, be applied to the work in question and his decision thereon shall, ~~subject to the provisions of Clause 29 hereof,~~ be final and binding on all parties.

Extension of time

19. In the event of any such alteration as aforesaid being made, the Contractor shall execute and complete the works contracted for, with such alteration, in the same manner as if they had been originally comprised in the works of Contract, and the period for completing the entire works shall not exceed the period limited for completion of the original work. Provided that if the works are suspended as in Clause 26 hereof provided or if the Contractor shall deem the works delayed by material alterations, by delay in obtaining possession of the site, by unusually or excessively bad weather, or by strikes affecting the building trade, he may apply to the Architect, who shall, from time to time, if he think the cause sufficient, but not otherwise, allow by writing under his hand such an extension of time as he shall consider proper, in which case the liquidated damages aforesaid will not be incurred during such extended time; but no extension of time shall be granted unless a claim therefor is made in writing at the time of such alleged delay.

Written orders for extra works

20. No work of any kind or description whatsoever will be regarded as an extra or paid for as such, unless previously to the commencement thereof the Contractor obtains from the Architect a written order for the same, and deviations or substitutions of any kind will be permitted or shall be made, without the written consent of the Architect. The amount and value of such extras, deviations, or substitutions shall be ascertained and fixed in the same manner as is provided in the preceding clause with respect to alterations. If the Contractor shall be desired to do any work which he considers is extra, and for which the Architect shall not have given a written order, the Contractor shall, notwithstanding anything herein contained execute such work, but he shall be entitled to have the question in dispute and the amount and value of the work settled by arbitration as in Clause 29 hereof; provided he has given notice in writing to the Architect before commencing such work of his intention to refer the matter to arbitration, but not otherwise.

Architect may require dismissal of employee for incompetence, etc.

21. The Architect may, at any time, require the Contractor to dismiss any person in the Contractor's employ upon the works who may in the opinion of the Architect be incompetent or misconduct himself, and such requirement shall be forthwith acted upon by the Contractor.

Decision of Architect final

22. The decision of the Architect upon the quantity, quality and state of work, and upon the general management thereof, shall, subject to the exceptions expressly provided in Clause 29 hereof, be final and conclusive on the Proprietor and Contractor.

Final Measurement.

23. The measuring of the works from time to time to enable the Contractor to receive payments on account thereof, shall not prevent all the works from being remeasured before final certificate is granted by the Architect; and should any certificate be granted to enable the Contractor to receive advances of money, such certificate or certificates shall not limit or prevent the Architect from calling upon the Contractor to remove any defective or objectionable works before the final certificate; and the Contractor shall, at his own cost, remove or replace such work when so called upon. If at any time, after the determination of the said Contract as in Clauses 26 or 27 hereof provided, or after the Architect has given his final certificate, it is found that inferior materials, or work different from that described in the specification, have or has been used in any part of the building, the Contractor shall pay to the Proprietor, such claim to be endorsed by the Architect subject to reference, the costs and expenses which the Proprietor has sustained and incurred, or which he may have to incur, to make the work comply with the terms of the specification, and also such other damages as the Proprietor may have sustained by reason of the premises.

Terms of payment

24. Subject to all deductions and reservations herein provided for, payment of the Contract price or of any sum in addition hereto will be made by the Proprietor only on a written certificate from the Architect stating the amount to be paid by the Proprietor to the Contractor, which amount shall not exceed eighty five per cent of the value of the work executed. And such certificates shall be given at intervals during the progress of the work, at the discretion of the Architect, and be for amounts not less than five hundred pounds (£500) at a time; and when the Contract has been determined as in Clause 26 hereof provided, or when in the opinion of the Architect the works are practically completed, the Contractor shall be entitled to receive from the Proprietor upon production of the Architect's certificate to that effect and upon delivering up possession to the Proprietor an amount which with the amounts previously certified to be due shall be equal to 95 per cent. of the value of the work actually done, or of the Contract sum, as the case may be; and within eight weeks of the date of the last-mentioned certificate

the balance of the value of the work actually done, or of the Contract price as the case may be (subject to any addition or deduction as aforesaid) will be paid by the Proprietor to the Contractor, upon the production of the Architect's written certificate stating the amount of such balance, provided that the Contractor has executed or completed the works to the Architect's entire satisfaction. In ascertaining the amount of such balance, the Architect shall determine and decide what, if any, sum is to be paid or deducted for any breach of this Contract which shall have been committed by the Contractor or Proprietor, or for liquidated damages under the provision of Clause 8 hereof, and his certificate specifying the balance due shall, subject to the provisions of Clause 29 hereof, be binding and conclusive.

Suspension of works.

25. The Proprietor may suspend the whole of the said works as hereinafter provided, and the Contractor upon receiving a written notice from the Architect shall suspend the whole or any portion of the works for a period not exceeding two weeks, shall resume the same when directed, and complete the whole without extra charge for such suspension. The period limited for completion of the original work or any extension of time which may be allowed as aforesaid shall be enlarged for a time equal in length to the period of such suspension; but if, in the opinion of the Architect, additional expense shall be actually incurred by the Contractor by reason of any rise in the cost of labor or materials during the time of such suspension, the Architect shall in his final certificate fix the amount of such additional expense, and the same when so fixed shall be added to the amount due and be paid by the Proprietor to the Contractor. In the event of such suspension exceeding thirty days the Contractor shall be entitled to interest at the rate of five per cent. per annum on the difference between the value of the work done as determined by the Architect at the time of such suspension and the amount which has to be paid to the Contractor at such time. Provided that, in the event of suspension in consequence of the materials or workmanship being of inferior character or different from that described in specification, or on account of any other default on the part of the Contractor, the above limit to the period of suspension and the above conditions as to allowances for suspension shall not apply.

Neglect or refusal to pay certificates

26. If the Proprietor refuse or neglect to pay the amount of any certificate given by the Architect during the progress of the work for the period of three days after the same shall have been presented to him for payment, the Contractor may give the Proprietor notice in writing that if the said amount be not paid within forty-eight hours after the giving of such notice he will suspend operations on the said works, and if he does give such notice he must at the same time deliver a copy thereof to the Architect. If the said amount be not paid within the said forty-eight hours he may suspend such operations, in which case he shall give the Proprietor immediate notice in writing that the works are so suspended, and that if the amount of such certificate be not paid within thirty days after such notice has been given the Contract will be determined. If the amount of such certificate be not paid within such period of thirty days the Contractor may, at the expiration of such period determine the said Contract, and the lien of the Proprietor on all plant, materials, and property shall be extinguished.

Provision for taking possession of works

27. If the Architect, at any time or times during the progress of the work, either before or after expiration of the Contract time, shall discover that the Contractor is using bad materials or workmanship, or is not proceeding with the works in a satisfactory or sufficiently expeditious manner, the Proprietor by the Architect may give to the Contractor or his foreman notice in writing requiring the work to be proceeded with regularly and effectually, or the causes of complaint rectified; and in case of default on the part of the Contractor for a period of seven days, or in case the Contractor shall become insolvent, or compound with his creditors or make any assignment for the benefit of his creditors, it shall be lawful for the Proprietor by the Architect to enter upon and take possession of the works and to employ any other person or persons to carry on and complete the same and to authorise him or them to use the plant, materials and property of the Contractor upon the works, and the costs charges incurred in any way in carrying on and completing the said works are to be paid to the Proprietor by the Contractor, or may be set off by the Proprietor against any moneys due or to become due to the Contractor, and the Proprietor shall have a lien on the said plant, materials, and property, unless and until the Architect shall certify in writing that the same are not further required and that there is no sum of money due by the Contractor to the Proprietor, in connection with the carrying on or completion of the said works.

Assessment of amount due under operation of Clauses 26 & 27

28. In the event of the Proprietor taking possession of the works as in Clause 26 hereof provided, the Architect shall have power to determine what sum, if any, should be deducted from the amount claimed by the Contractor for delay in carrying out the work already done, or for use of bad material or bad workmanship in the same, or for any breach of this Contract of what kind soever. In estimating the amount of such deduction, the Architect shall decide what period of delay would inevitably occur in the completion of the works if they were thenceforth completed in the most expeditious manner possible, and also the costs of substituting good materials or workmanship for such bad materials or workmanship.

Arbitration Clause.

29. If the Contractor or Proprietor shall either actually or in the opinion of the Architect commit any breach of this Contract, the party in default shall pay to the other of them for and in respect of such breach such sum only as the Architect shall ascertain and certify to be the amount occasioned by such breach, and the Contractor and Proprietor hereby respectively agree to pay and accept such sum in full satisfaction for such breach. If either the Contractor or Proprietor be dissatisfied with the decision of the Architect with respect to any breach of this Contract or with respect to the quantity or value of the extras and omissions and variations on the Contract and questions of delay or the withholding of certificates or as to the true intent and mean

50 of the drawings and specifications as to costs, and shall have otherwise complied with the requirements of the foregoing conditions, such dissatisfied party may within seven days after the decision of the Architect shall have been notified to him, and not otherwise give to the Architect days' notice in writing that he desires the matter in dispute to be referred to arbitration, and thereupon such matters shall be admitted to the arbitration of

of event of his death or unwillingness to act, to

of being members of the Royal Victorian Institute of Architects, and the award of the said

or the said (as the case may be), shall be final and binding on both Contractor and Proprietor, and neither party shall be entitled to commence or maintain any action upon any such breach or dispute until such matter shall have been referred or determined as hereinbefore provided, and then only for the amount or relief to which the arbitrator by his award and unless either party is entitled. For the purpose of enabling the arbitrator to make his award, he shall have all the powers conferred on arbitrators by "The Arbitrators Act 1915," and the costs of the submission, reference, and award shall be in his discretion, and his award shall have the same effect as the certificate of the Architect would have had if no reference to arbitration had been desired. *50*

Interpretation

Clerk of Works

30. Should a Clerk of Works be appointed to whom objection is taken by the Contractor within days of having received notice of such appointment, the question as to whether he should be continued in his position shall be referred for decision to an Architect nominated by the Architect, and shall be the President or one of the Vice-Presidents of the Royal Victorian Institute of Architects, and a contractor nominated by the Contractor, and who shall be the President or one of the Vice-Presidents of the Builders' and Contractors' Association of Victoria. Should these two be unable to agree, they shall appoint an umpire, and the decision of the referee or of the umpire, as the case may be, shall be final and binding on all parties. The costs of the reference and award shall be at the discretion of the referees or umpire, as the case may be. The Contractor shall not be entitled, on account of any objection made by him to the Clerk of Works in the manner aforesaid, to refuse to act under such Clerk of Works pending the decision of the objection.

Property in drawing, etc.

31. The specifications and all drawings in connection with this Contract are the absolute property of the Architect, and must remain in his custody; neither the Proprietor nor the Contractor shall have any claim, right, title or interest to or in such specification, plans or drawings, and all copies thereof supplied to the Contractor shall, notwithstanding any payment by him for the same, be returned to the Architect before the Contractor receives or is entitled to receive the final certificate before referred to.

32. Throughout these general conditions, and throughout the specification and Contract, unless repugnant to the sense of context, words importing the plural number only shall include the singular number. The word Architect shall mean the Architect for the time being employed by the Proprietor in relation to the words above referred to.

The above are the Conditions of Contract referred to in a Contract dated the

Thirteenth day of March 1936 and made between

J. B. Taylor & Sons Pty. Ltd. Contractor of the one part and The Mayor, Councillors & Burgesses of Ringwood Proprietor of the other part.

And also between the Proprietor and Architect, and Contractor and Architect we agree that we are bound thereby.

Witness *[Signature]* *[Signature]* Contractor.

Witness *[Signature]* *[Signature]* Secretary.

Witness *[Signature]* Proprietor.

Witness *[Signature]* Architect.

Witness *[Signature]*

Contract made the Thirteenth day of March 1936

BETWEEN J. C. Taylor & Sons Pty Ltd
of Gheringhap Street Geelong

(throughout these presents and the specifications and general conditions respectively this day signed by the parties hereof styled "The Contractor") of the one part and The Mayor

Councillors and Burgesses of

of Ringwood

(throughout these presents and the said specifications and general conditions styled "the Proprietor") of the other part

WITNESSETH that in consideration of the sum of Six Thousand

eight Hundred and Ninety Seven Pounds

£6897

to be paid to the Contractor at the times and in the events mentioned in the said general conditions, the said Contractor doth hereby for himself, his heirs, executors and administrators covenant with the said Proprietor, his executors, and administrators, that he, the said Contractor his executors or

administrators shall and will before the Twenty ninth day

of August 1936 next erect, do, execute, perform, complete

and deliver up to the Proprietor, all and singular, the works, matters and things mentioned and referred to in the said specifications and general conditions, and in the drawings therein respectively referred to, and in the manner thereby respectively required. And also shall and will observe, abide by, and perform the said general conditions on his part. And these presents also witness that in consideration of the premises of the said Proprietor, doth hereby for himself, his heirs, executors, and administrators, covenant with the said Contractor, his executors and administrators, that he, the Proprietor, will observe, abide by, and perform the said general conditions on his part.

IN WITNESS whereof the said parties to these presents have hereunto set their hands and seals the day and year first written above.

The Common Seal of J. C. TAYLOR & SONS PTY. LTD. was hereto affixed by Order of the Board of Directors in the presence of

George Taylor Director
John Moore Secretary

Signed, sealed and delivered by the said Contractor in the presence of

The Common Seal of the Mayor, Councillors and Burgesses of the BOROUGH OF RINGWOOD was hereto affixed this 13 day of March

1936 signed, sealed and delivered by the said Proprietor in the presence of

Walter Hill MAYOR

A. J. Long TOWN CLERK

