

Dated

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(1) UNIVERSITY OF SOUTHAMPTON

and

(2) [CONTRACTOR]

BUILDING CONTRACT

**incorporating the JCT Minor Works Building Contract (with Contractor's Design)
for the carrying out of construction works at []**

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**JCT Minor Works
Building Contract 2016
(With Contractor's design)**

Contract Date:

20

This Agreement records the terms of a contract made between the parties identified as the Contractor and Employer below. The Agreement incorporates the conditions and supplemental conditions of the JCT Minor Works Building Contract with Contractor's design 2016 Edition as amended by the following provisions and schedules.

This Agreement sets out the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Agreement.

This Agreement shall not be amended, modified or supplemented except in writing by duly authorised representatives of both Parties.

ARTICLES OF AGREEMENT

Employer	UNIVERSITY OF SOUTHAMPTON (a company incorporated by Royal Charter under number RC000668) of Highfield, Southampton, Hampshire SO17 1BJ
Contractor	[CONTRACTOR] (registered in England and Wales under company) whose registered office is at

RECITALS

First	The Employer wishes to have the following work carried out: [set out the nature of the Works] at [set out the location of the Works] (the " Works ") under the direction of the Architect/Contract Administrator referred to in Article 3;
Second	the Works include the design and construction of: (the " Contractor's Designed Portion ");

Third	<p>the Employer has had the following documents prepared which show and describe the work to be done:</p> <ul style="list-style-type: none"> • the drawings numbered/listed in Schedule 4 (the “Contract Drawings”)¹; • a Specification as set out in Schedule 5 (the “Contract Specification”)²; • the Work Schedules as set out in Schedule 5;³ <p>other documents showing or describing or otherwise stating his requirements for the design and construction of the Contractor’s Designed Portion as set out in Schedule 6 (the “Employer’s Requirements”);</p> <p>which, together with the Conditions and, if applicable, a Schedule of Rates as referred to in the Forth Recital collectively comprise the “Contract Documents”);</p>
Fourth	the Contractor has supplied the Employer with a copy of the priced Contract Specification or Works Schedules or provided a Schedule of Rates; ⁴
Fifth	for the purposes of the Construction Industry Scheme (CIS) under the Finance Act 2004, the status of the Employer is, as at the Base Date, that stated in the Contract Particulars;
Sixth	for the purposes of the Construction (Design and Management) Regulations 2015 (the “ CDM Regulations ”) the status of the project that comprises or includes the Works is stated in the Contract Particulars;
Seventh	where so stated in the Contract Particulars, this Contract is supplemented by the Framework Agreement identified in those particulars;
Eighth	whether any of the Supplemental Provisions 1 to 6 apply is identified in the Contract Particulars.

ARTICLES	
Article 1	<p>Contractor’s Obligations</p> <p>The Contractor shall carry out and complete the Works in accordance with the Contract Documents.</p>
Article 2	<p>Contract Sum</p> <p>The Employer shall pay the Contractor at the times and in the manner specified in the Conditions the VAT exclusive sum of £[] (the “Contract Sum”), or such other sum as becomes payable under this Contract.</p>

¹ Delete as appropriate

² Delete as appropriate

³ Delete as appropriate

⁴ Delete as appropriate

Article 3	<p>Architect/Contract Administrator</p> <p>For the purposes of this Contract the Architect/Contract Administrator is:</p> <p>[] of []</p> <p>or, if he ceases to be the Architect/Contract Administrator, such other person as the Employer shall nominate for that purpose (such nomination to be made within 14 days of the cessation), provided that no replacement Architect/Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given by any predecessor in that post, save to the extent that that predecessor, if still in the post, would then have power under this Contract to do so.</p>
Article 4	<p>Principal Designer</p> <p>The Principal Designer for the purposes of the CDM Regulations is the Architect/Contract Administrator (or)⁵:</p> <p>[] of []</p> <p>or such replacement as the Employer at any time appoints to fulfil that role.</p>
Article 5	<p>Principal Contractor</p> <p>The Principal Contractor for the purposes of the CDM Regulations is the Contractor or such replacement as the Employer at any time appoints to perform that role.</p>
Article 6	<p>Adjudication</p> <p>If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 7.2.</p>
Article 7	<p>Arbitration</p> <p>This Article does not apply.</p>
Article 8	<p>Legal Proceedings</p> <p>Subject to Article 6, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.</p>

CONTRACT PARTICULARS

Note an asterisk * indicates text that is to be deleted as appropriate.

Fifth Recital and Schedule 2 (paragraphs 1.1, 1.2, 1.5, 1.6, 2.1 and 2.2)	<p>Base Date: [The date of this contract.]</p>
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⁵ Insert the name of the Principal Designer in Article 4 if the Architect/Contract Administrator is not to fulfil that role.

Fifth Recital and clause 4.2	<p>Construction Industry Scheme (CIS)</p> <p>The Employer at the Base Date, by virtue of being a registered charity, is exempt from the provisions of the CIS.</p>				
Sixth Recital	<p>CDM Regulations</p> <p>The project is/is not⁶ notifiable</p>				
Eighth Recital and Schedule 3	<p>Supplemental Provisions</p> <p><i>(Where neither entry against one of the Supplemental Provisions 1 to 6 below is deleted, that Supplemental Provision applies.)</i></p> <p>Collaborative working</p> <p>Supplemental Provision 1 applies/does not apply*</p> <p>Health and safety</p> <p>Supplemental Provision 2 applies/does not apply*</p> <p>Cost savings and value improvements</p> <p>Supplemental Provision 3 applies/does not apply*</p> <p>Sustainable development and environmental considerations</p> <p>Supplemental Provision 4 applies/does not apply*</p> <p>Performance Indicators and monitoring</p> <p>Supplemental Provision 5 applies/does not apply*</p> <p>Notification and negotiation of disputes</p> <p>Supplemental Provision 6 applies/does not apply*</p> <p>Where Supplemental Provision 6 applies, the respective nominees of the Parties are:</p> <table border="1" data-bbox="421 1317 1370 1816"> <tr> <td data-bbox="421 1317 699 1570">Employer's nominee:</td> <td data-bbox="699 1317 1370 1570"></td> </tr> <tr> <td data-bbox="421 1570 699 1816">Contractor's nominee:</td> <td data-bbox="699 1570 1370 1816"></td> </tr> </table> <p>or such replacement as each Party may notify to the other from time to time</p>	Employer's nominee:		Contractor's nominee:	
Employer's nominee:					
Contractor's nominee:					
Article 7	Arbitration				

⁶ Delete as appropriate

	Article 7 and Schedule 1 (Arbitration) do not apply
2.3	Works commencement date:
2.3	Date for Completion:
2.9	Liquidated damages At the rate of £[] per week and pro rata for parts of a week
2.11	Rectification Period 12 months from the date of practical completion of the Works
4.3	Interim payments - Interim Valuation Dates <i>(Unless otherwise stated, the first interim valuation date is one month after the Works commencement date specified in these Particulars (against the reference to clause 2.3) and thereafter at monthly intervals)</i> The first Interim Valuation Date is [] and thereafter at intervals of [].
4.3	Interim payments –percentages of value Payments due prior to practical completion - the percentage of the total value of work etc. is: [95] per cent <i>(The percentage is 95% unless a different rate is stated)</i> Payments becoming due on or after practical completion - the percentage of the total amount to be paid to the Contractor is: [97.5] per cent <i>(The percentage is 97.5% unless a different rate is stated)</i>
4.3 and 4.8	Fluctuations provision The fluctuations provision does not apply
4.8.1	Supply of documentation for computation of amount to be finally certified 3 months from the date of practical completion <i>(The period is 3 months unless a different period is stated)</i>
5.3	Contractor's Public Liability insurance: injury to persons or property The required level of cover is not less than £[] for any one occurrence or series of occurrences arising out of one event
5.4A, 5.4B and 5.4C	Insurance of the Works etc. – alternative provisions <ul style="list-style-type: none"> • Clause 5.4A (<i>Works Insurance by Contractor in joint names</i>) applies • Clause 5.4B (<i>Works and existing structures insurance by Employer in Joint</i>)

	<i>Names) applies/</i> <ul style="list-style-type: none"> • Clause 5.4C (<i>Works and existing structures insurance by other means</i>) applies⁷
5.4A and 5.4B	Percentage to cover professional fees: 15 per cent <i>(If no other percentage is stated, it shall be 15 per cent)</i>
5.4C	Insurance arrangements – details of the required policy or policies: are set out in the following document(s):
7.2	Adjudication The Adjudicator is to be the person nominated by the Chairman for the time being of the Technology and Construction Solicitors' Association.
Schedule 1 (paragraph 2.1)	Arbitration: Not applicable

IN WITNESS whereof the Parties have signed this Agreement on the contract date stated on page 1. Notwithstanding that both Parties have signed this contract, the period during which either Party may bring an action against the other for any breach of this contract will be 12 years from the date of practical completion.

Signed for and on behalf of the Employer:

.....

Signed for and on behalf of the Contractor:

.....

⁷ Delete the options that do not apply

CONDITIONS

The following clauses in the JCT Contract shall be deemed to be amended as follows:

Clause 1.1 Definitions

Amend the following definition:

- **"Business Day"**

is a day other than a Saturday, Sunday or a Bank Holiday in England or a day when the University of Southampton is officially closed;

Add the following definition:

- **"Confidential Information"**

means the Contract and any information that ought to be considered as confidential (however so conveyed or on what media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person including pricing, trade secrets, intellectual property rights and know-how of either Party and all personal data within the meaning of the Data Protection Act 2018;"

Insert the following new clauses:

"Clause 1.9 Confidentiality and Data Protection

Clause 1.9.1 Each Party shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly and shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of that Party, except to such persons and to such extent as may be necessary for the performance of this Contract or except where disclosure is expressly permitted by this Contract or required by law.

Clause 1.9.2 The Contractor shall comply (and shall ensure that its personnel, consultants and subcontractors shall comply) with any notification requirements or other obligations under the Data Protection Act 2018 (the "DPA") and the General Data Protection Regulations 2018 (the "GDPR") and shall fully comply with its obligations under the DPA and the GDPR and provide the Works in a manner that allows the Employer to be compliant with the DPA and the GDPR.

Clause 1.9.2 The Contractor shall (and shall procure that any of its personnel involved in the provision of the Works shall) comply with any notification requirements under the DPA and the GDPR and both Parties shall duly observe all their obligations under the DPA and the GDPR which arise in connection with this Contract.

Clause 1.9.3 Notwithstanding the general obligation in clause 1.9.2, where the Contractor is processing personal data as a data processor for the Employer, the Contractor shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data), as required under the DPA and the GDPR.

Clause 1.10 Freedom of Information

Clause 1.10.1 The Contractor acknowledges that the Employer is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations. The Contractor undertakes to assist and co-operate with the Employer to enable the Employer to comply with these information disclosures to the extent that such obligations relate to information held by the Contractor on behalf of the Employer otherwise in connection with this Contract.

Clause 1.10.2 The Contractor shall ensure that his sub-contractors shall:

- Clause 1.10.2.1 transfer the request for information to the Employer as soon as practicable after receipt and in any event within one Business Day of receiving a request for information;
- Clause 1.10.2.2 provide the Employer with a copy of all information in his possession or power in the form that the Employer requires within two Business Days (or such other period as the Employer may specify) of the Employer requesting that information; and
- Clause 1.14.2.3 provide all necessary assistance as reasonably requested by the Employer to enable the Employer to respond to a request for information within the time for compliance set out in Section 10 of the Freedom of Information Act 2000.
- Clause 1.14.3 The Employer shall be responsible for determining at his absolute discretion whether:
- Clause 1.14.3.1 the information is exempt from disclosure under the Freedom of Information Act 2000 and the Environmental Information Regulations;
- Clause 1.14.3.2 the information is to be disclosed in response to a Request for Information and in no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Employer.
- Clause 1.14.4 The Contractor acknowledges that the Employer may, acting in accordance with the Department or Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000, be obliged under the Freedom of Information Act 2000 or the Environmental Information Regulations to disclose Information following consultation with the Contractor and having taken his views into account.
- Clause 1.14.5 In accordance with the best practice recommendations in the Freedom of Information Act 2000 the Employer shall in all cases inform the Contractor of any request for information which may result in the disclosure of Contractor information and shall consult the Contractor,. The Contractor acknowledges that any consultation must be of short duration and shall respond expeditiously when informed of a request.
- Clause 1.14.6 The Contractor shall ensure that all information produced in the course of this Contract or relating to this Contract is retained for disclosure and shall permit the Employer to inspect such records as requested from time to time.
- Clause 1.14.7 The Contractor acknowledges that any lists or schedules provided by him outlining Confidential Information are of indicative value only and that the Employer may nevertheless be obliged to disclose Confidential Information in accordance with clause 1.9."

Clause 1.15 Compliance with anti-slavery and human trafficking laws

- Clause 1.15.1 In performing its obligations under the contract, the Contractor shall:
- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
 - (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.

Clause 3.3 Sub-Contracting

Insert the following new clause:

Clause 3.3A The Contractor shall ensure that any subcontract contains suitable provisions to require that:

- Clause 3.3A.1 any payment due from the Contractor to the subcontractor under the relevant subcontract is to be made no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed; and

Clause 3.3A.2 any invoices for payment submitted by a subcontractor are considered and verified by the Contractor in a timely fashion and that undue delay in doing so is not to be sufficient justification for failing to regard an invoice as valid and undisputed;

Clause 3.3A.3 the subcontractor includes in any sub-subcontract which the subcontractor, in turn awards, suitable provisions to impose, as between the parties to that sub-subcontract, requirements to the same effect as those required by clauses 3.9C.1 and 3.9C2 above."⁸

Clause 4.3 Interim payments –dates and certificates

In the final line, delete “the final date for payment of each interim payment shall be 14 days from the due date” and substitute: “the final date for payment of each interim payment shall be 23 days from the later of its due date and the date of receipt by the Employer of a VAT invoice in respect of the amount due.”⁹

⁸ N.B. this clause required to comply with Regulation 113(2) of the Public Contracts Regulations 2015

⁹ The due date for payment is 7 days after the relevant Interim Valuation Date (clause 4.3) so the final date is 30 days (7+23 days) after the relevant Interim Valuation Date.

SCHEDULE 4 – THE CONTRACT DRAWINGS

SCHEDULE 5 – THE CONTRACT SPECIFICATION AND ANY WORK SCHEDULES

SCHEDULE 6 – THE CONTRACTOR’S DESIGNED PORTION

Part 1 – The Employer’s Requirements for the Contractor’s Designed Portion comprise the following documents:

<i>Date</i>	<i>Document</i>	<i>Author</i>

Copies of the above documents are set out on the attached CD

[Attach CD containing the above Employer’s Requirements here]