

S

A

M

CONSTRUCTION AGREEMENT
(FIXED SUM, INSTANT PAYMENT WITH RETENTION)

P

L

E

THIS AGREEMENT is made the

BETWEEN:

- (1) <<Name of Contractor>> a <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at <<Registered office>> (the "Contractor")
- (2) <<Name of Sub-Contractor>> ("Sub-Contractor")

IT IS AGREED as follows:

1. DEFINITIONS

- 1.1 In this Agreement the following terms shall have the following meanings unless otherwise requires the following

'Confidential Information' means any information, data or other material, in any form, whether written or oral, which is confidential or may become confidential, in relation to the Contractor, or any party, information which is disclosed to the Contractor pursuant to or in connection with this Agreement, in writing or any other medium, and which is expressly stated to be confidential

'Main Contract' means the contract entered into on <<Date>> between (1) <<Name of Employer>> and (2) <<Name of Contractor>> for the carrying out of the Main Contract

'Main Contract Works' means the works comprised in the <<Main contract works>>;

'Works' means the works comprised in Part 1 of the Schedule.

2. ENGAGEMENT OF SUB-CONTRACTOR

- 2.1 The Contractor hereby engages the Sub-Contractor to carry out the Works in accordance with the terms of this Agreement.
- 2.2 It is understood and agreed that the Sub-Contractor's activities and those of its employees and workers engaged by it shall be carried out under the exclusive direction and control of the Contractor.
- 2.3 The Sub-Contractor shall be registered with HMRC's Construction Industry Scheme and shall provide evidence of his registration to the Contractor.
- 2.4 Any obligation of the Contractor to make payment under this Agreement is subject to the provisions of the Construction Industry Scheme.
- 2.5 The Sub-Contractor shall not subcontract any of the Works without the prior written consent of the Contractor.
- 2.6 Neither party to this Agreement shall be entitled to claim the benefit of this Agreement without the other's prior written consent.
- 2.7 The grant and acceptance of this Agreement do not create any mutual

obligations on the
accept any further a
created or implied.

or the Sub-Contractor to offer or
nuing relationship shall hereby be

3. TIMING

3.1 The Sub-Contractor
<<Date>> and <<Date>>
instruction to comm

works [on <<Date>>] **OR** [between
days of the Contractor's written

3.2 The Sub-Contractor
<<Number>> week
timescale:

urs to complete the Works [within
nt] **OR** [according to the following

<<Insert timetable,
ates>>.

3.3 The Contractor sha
Works are practical

tor in writing of the date when the

3.4 The Sub-Contractor
of time rectify any d
within 3 months from

se and within a reasonable period
s notified to him by the Contractor
mpletion of the Works.

4. SUB-CONTRACTOR'S OBLIGATIONS

4.1 The Sub-Contractor
carry out the Works
and workmanlike m

killed and experienced workers to
e Works are carried out in a good

4.2 The Sub-Contractor
the Contractor in b
brought to the Sub-

ks in a manner that does not put
f the Main Contract that has been

4.3 The Sub-Contractor

4.3.1 the goods an

d in Part 2 of the Schedule; and

4.3.2 all other goo
for those (if a

ed to complete the Works except
e Schedule

and all goods and m

satisfactory quality.

4.4 The Sub-Contractor
equipment and pro
those items (if any)

ls, plant and machinery, safety
to carry out the Works except for
chedule.

4.5 The Sub-Contractor
carrying out of the V

site all wasted created during the

4.6 The Sub-Contractor
Works are done, an
that due account is
activities of the Con
Contractor.

nising how and in what order the
ntractor's representative to ensure
the timing of the Works upon the
b-contractors also engaged by the

4.7 The Sub-Contractor
Works.

ws and regulations relating to the

4.8 The Sub-Contractor
Contractor relating t

asonable regulations made by the

5. CONTRACTOR'S OBLIGATIONS

5.1 The Contractor sha

contractor has sufficient access to

the site to perform t

gations under this Agreement.

- | | |
|-----|--|
| 5.2 | The Contractor shall comply with the Schedule and any other relevant Regulations. |
| 5.3 | The Contractor shall ensure that all workers wear appropriate protective clothing and equipment at all times. |
| 5.4 | The Contractor shall ensure that all workers are trained in accordance with the Regulations 2015 and any other relevant Regulations. |

materials (if any) listed in Part 3 of all be of a satisfactory quality.

and machinery, safety equipment of the Schedule.

struction (Design and Management)
s and the site.

6. LIABILITY, INDEMNITY AND RELEASE

- 6.1 The Sub-Contractor shall indemnify the Contractor for all claims, damages, costs and expenses, including reasonable attorneys' fees, in connection with any proceedings in respect of the same:

se 6.3] be liable for, and shall
liability, damages, loss, claims or
or death of any person where the

- 6.1.1 arises out of Works; and

caused by the carrying out of the

- 6.1.2 is due to the
of the Sub-C
the Sub-Con

statutory duty, omission or default
or agents or any person for whom

- 6.2 The Sub-Contractor shall indemnify the Contractor for all damages, claims, costs and expenses, including reasonable attorneys' fees, in connection with any third-party proceedings in respect of which the Contractor is or may become a party, where such injury or damage is caused in whole or in part by the negligence of the Sub-Contractor.

se 6.3] be liable for, and shall
liability, damages, loss, claims or
mage whatsoever to any property

- 6.2.1 arises out of Works; and

reason of the performance of the

- 6.2.2 is due to the
of the Sub-C
the Sub-Con

statutory duty, omission or default
or agents or any person for whom

- 6.3 [The total liability of
limited to £<<sum>>]

der clauses 6.1 and 6.2 shall be

- 6.4 The Sub-Contractor shall maintain liability insurance covering all or any part of the Sub-Contractor's insurance cover to the

professional indemnity and public
one authorised by him to carry out
requested provide evidence of the

7. PAYMENTS TO THE SUB

- ### 7.1 The price for the W

10. *Journal of the American Medical Association*, 2000; 283: 2686-2692.

- ## 7.2 Interim payments following completion

Monthly basis with a final payment
in accordance with the provisions below.

- 7.3 After the end of the Contract, the Contractor shall remain responsible for the maintenance and repair of the works and materials thereof at one month after the end of the Contract.

Commencement of the Works and Contractor shall submit an invoice to

- 7.4 The amount invoice
The invoice must s
materials used.

the work that has been carried out.
has been done and the goods and

- 7.5 The Sub-Contractor shall complete the Work within the time specified in the Contract, or more than <<e.g. 90 days after the date of completion of the Work by the Sub-Contractor and

... that in aggregate account for
the date 4 months after practical
month after any defects notified to the
been rectified (the "Final Payment

S

A

M

P

L

E

Date”).

- 7.6 After the Final Payment, the Contractor shall submit an invoice to the Client for the amount of the price. The invoice must contain a certificate that the Works have been rectified in accordance with clause 3.4 have been rectified.
- 7.7 The Contractor shall submit the invoice in the invoices within 14 days of receipt of the invoice.
- 7.8 All payments made by the Client to the Contractor are expressed exclusive of any Value Added Tax charged by the Contractor.
- 7.9 If the Contractor has not submitted the invoice by the due date the Contractor shall pay the Sub-Contractor the amount due at the rate of 5% per annum above the balance due from the date of Barclays Bank plc from the due date until the payment is received.
- 7.10 No further payment shall be made by the Client to the Contractor for the Works over and above the consideration payable under clause and without limitation no payment will be made in respect of any goods, materials or other expenses incurred by the Contractor in carrying out the Works.

8. NON-COMPETITION AND

- 8.1 [The Sub-Contractor shall not, for a period of <<insert time period>> after the termination or expiry of this Agreement, provide services to any competitor of the Contractor [within <<insert radius>>].] [The Contractor may waive this restriction entirely on a case-by-case basis upon receipt of a written request from the Sub-Contractor.]
- 8.2 [The Sub-Contractor shall not, for a period of <<insert time period>> after the termination or expiry of this Agreement, solicit and/or employ clients and/or employees with which the Contractor has dealt within the <<insert time period>> prior to the date of termination or expiry of this Agreement. The Contractor may waive this restriction entirely on a case-by-case basis upon receipt of a written request from the Sub-Contractor.] [The Contractor may be given if it shall violate this restriction and the client in question as to the sharing of the client information.]

DATA PROTECTION [,] [SHARING OF INFORMATION]

- 9.1 In this Clause 9:
- 9.1.1 “Data Protection Legislation” means the Data Protection Act 1998 (as amended) and any subsequent legislation in the UK, GDPR and any national legislation implementing or amending the GDPR (as amended from time to time) and secondary legislation (as amended from time to time) in the UK and subsequently 2) any legislation in any other country which implements or amends the GDPR;
- 9.1.2 “GDPR” means the General Data Protection Regulation (EU) 2016/679 General Data Protection Regulation;
- 9.1.3 “personal data” means personal data as defined in the Data Protection Legislation;
- 9.1.4 “First Party” means the party to this Agreement;
- 9.1.5 “Other Party” means any third party, in any instance, either one of the parties to this Agreement or any third party, in any instance, whichever one of the parties to this Agreement is the party to this Agreement.

- parties is not
- 9.2 All personal data that will be collected, processed, and held by that First Party shall be in accordance with the provisions of Data Protection Legislation and the Data Protection Legislation of the Other Party.
- 9.3 For complete details of the collection, processing, storage, and retention of personal data, not limited to, the purpose(s) for which personal data is collected, or bases for using it, details of the Other Party's (and its subsidiaries) rights and how to exercise them, and personal data shared with the Other Party should refer to the Privacy Notice of the Other Party.
- 9.4 For the purpose of this Agreement, if a Notice of a First Party is available to the Other Party, the Other Party shall refer to the Notice of a First Party.
- 9.5 [All personal data to be shared with the Other Party under this Agreement shall be shared in accordance with the terms of the Data Sharing Agreement entered into on <<insert date>> pursuant to this Agreement.]
- 9.6 ¹[All personal data to be shared with the Other Party under this Agreement shall be shared in accordance with the terms of the Data Processing Agreement entered into on <<insert date>> pursuant to this Agreement.]
10. **CONFIDENTIALITY**
- 10.1 Except as provided in this Agreement, each party shall keep confidential and [for <<insert period>>] after termination or expiration of this Agreement:
- 10.1.1 keep confidential the Confidential Information;
- 10.1.2 not disclose the Confidential Information to any other party;
- 10.1.3 not use any Confidential Information for any purpose other than as contemplated by this Agreement;
- 10.1.4 not make any Confidential Information available in any way or part with possession of the Confidential Information;
- 10.1.5 ensure that the Confidential Information of its officers, employees, agents, sub-contractors, or subcontractors does not become a breach of the Confidential Information Clauses 10.1.1 to 10.1.4 above.
- 10.2 Either party may:
- 10.2.1 disclose any Confidential Information to:
- a) any subsidiary or affiliate of that party;
 - b) any government authority or regulatory body; or
 - c) any other person or entity if that party or of any of the parties or bodies;
- provided that the disclosure is for the purposes contemplated by this Agreement (including, but not limited to, the carrying out of the Works), or as required by law, in which case that party shall first inform the other party in writing that the Confidential Information is confidential and that the disclosure is to any such body or officer of any such body.

¹ See the notes about Clause 9 in the information pack.

S

A

M

P

L

E

obtain and
undertaking
nearly as p
Confidential
for which the

party a written confidentiality
n. Such undertaking should be as
of this clause 10, to keep the
and to use it only for the purposes

10.2.2 use any Cor
other person
or at any tim
fault of that p
disclose any
knowledge.

any purpose, or disclose it to any
it is at the date of this Agreement,
nes, public knowledge through no
e or disclosure, that party must not
al Information which is not public

10.3 The provisions of t
their terms, notwiths

continue in force in accordance with
of this Agreement for any reason.

11. FORCE MAJEURE

11.1 No party to this Ag
their obligations wh
beyond the reasona
limited to: power fa
unrest, fire, flood,
governmental action
in question.

any failure or delay in performing
ay results from any cause that is
Such causes include, but are not
vider failure, industrial action, civil
acts of terrorism, acts of war,
is beyond the control of the party

11.2 [In the event that a
hereunder as a res
period>>, the other
written notice at the
parties shall agree
completed up to the
any prior contractua
of this Agreement.]

t cannot perform their obligations
r a continuous period of <<insert
tion terminate this Agreement by
the event of such termination, the
sonable payment for all Works
ch payment shall take into account
nto in reliance on the performance

12. TERMINATION

12.1 This Agreement ma
with immediate effe
Party") if:

er party (the "Terminating Party")
ce to the other party (the "Other

12.1.1 the Other Pa
of this Agre
remedied wi
Terminating

ply with the terms and obligations
e, if capable of remedy, is not
en notice of such failure from the

12.1.2 the Other Pa
compulsory
reconstruction
of the whole

y or liquidation either voluntary or
oses of bona fide corporate
a receiver is appointed in respect

12.2 If the Main Contract

12.2.1 this Agreem

atically;

12.2.2 the Contract
termination;

notify the Sub-Contractor of the

12.2.3 the Sub-Con

leave the site.

12.3 [This Agreement m
giving any reason f

her party at any time and without
giving 28 days' notice in writing to

- the other party.]
- 12.4 The termination of which have already
13. **DISPUTE RESOLUTION**
- 13.1 If a dispute arises negotiations between
- 13.1.1 the parties s other party t
- 13.1.2 either party Scheme for 1998;
- 13.1.3 either party Arbitration A parties. In arbitrator(s) written notice President for the appointn rules that ma
14. **MISCELLANEOUS**
- 14.1 This Agreement co and the Contractor between the partie cancelled as from the claim against the ot
- 14.2 Any notice to be se prepaid recorded o Agreement or to su writing taking effect deemed received 48
- 14.3 The headings in thi be incorporated into
- 14.4 In this agreement, u include the plural a gender, and a refer and to an unincorpor
- 14.5 The parties agree t right arising solely b to enforce any term
15. **GOVERNING LAW AND J**
- 15.1 This Agreement sha dispute concerning jurisdiction.

IN WITNESS WHEREOF this Ag before written

executed the day and year first

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Contractor's

In the presence of
<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Sub-Contractor's

In the presence of
<<Name & Address of Witness>>

S

A

M

P

L

E

S

Part 1 – Description of the Works

<<Insert detailed description of Works and related documents, e.g. a tender>>

A

Part 2 – List of goods and materials to be supplied by Sub-Contractor

<<Insert list>>

M

Part 3 – List of goods and materials to be supplied by Contractor

<<Insert list>>

P

Part 4 – List of tools, plant and materials to be supplied by the Contractor and protective clothing to be supplied by the Contractor

<<Insert list>>

L

E