

## Take your pick: JCT's four main design contracts

	<p><b>Major Project Construction Contract (MP05)</b>                      For major works, including design, undertaken by experienced employers and contractors. It gives more flexibility to the employer, with greater risk transferred to the contractor.                      An alternative to DB05, and shorter</p>	<p><b>Design and Build (DB05)</b>                      A more detailed contract for significant works, which requires the employer to set out its brief for the contractor, which then works up proposals for the completion of design and works.                      Likely to be a favourite of funders and developers, with amendments</p>	<p><b>Intermediate Contract with Design (ICD05)</b>                      For simple works with specific elements designed by the contractor, where detailed contract provisions for pricing and specification will assist.                      Not a full design-and-build contract.</p>	<p><b>Minor Works with Design (MWD05)</b>                      For simple works with little design, using a professional contract administrator but without more detailed contract provisions.                      A useful contract for clients procuring direct works after letting the main contract</p>
<p><b>Design risks</b></p>	<ul style="list-style-type: none"> <li>Choose between high-level skill and care or fitness-for-purpose design obligations.                              Greater risk for the contractor but closest to employers and funders expectations for bigger schemes</li> <li>"Design adoption" of all design risk by contractor, except for early design.                              Passes significant design risk to contractor - watch out for employers making amendments</li> <li>Comprehensive transferable copyright licence for employer.</li> </ul>	<ul style="list-style-type: none"> <li>The contractor has equivalent liability to an architect (that is, reasonable skill and care) to complete the design of the works.</li> <li>Not full "design adoption".                              To place early design risk on the contractor, bespoke novation arrangements will be required</li> </ul>	<ul style="list-style-type: none"> <li>Contractor has equivalent liability to an architect (reasonable skill and care), limited to its designed portion of the works.</li> <li>Not a design-and-build contract, but it incorporates a contractor's designed portion for which the contractor takes the risk.                              If the contractor is designing more than just simple elements this contract may not be suitable consider using DB05</li> </ul>	<ul style="list-style-type: none"> <li>Simple design obligation.</li> <li>Cut-down version of a contractor's designed portion of the works.</li> </ul>
<p><b>Copyright</b></p>	<ul style="list-style-type: none"> <li>Comprehensive transferable copyright licence for employer.</li> </ul>	<ul style="list-style-type: none"> <li>Transferable copyright licence for employer is subject to payment.                              Where employer and contractor are in dispute, the employer may have difficulty using the design information to finish the job</li> </ul>	<ul style="list-style-type: none"> <li>Transferable copyright licence for employer is subject to payment.</li> </ul>	<ul style="list-style-type: none"> <li>No express copyright licence.                              Consider whether your project requires a copyright licence even on basic projects a licence is likely to be required to copy and use the design information in the statutory health and safety file</li> </ul>
<p><b>Extended liabilities</b></p>	<ul style="list-style-type: none"> <li>Liability of the contractor may extend to funders, purchasers and tenants in schedules of third party rights only. This contract does not cater for collateral warranties.</li> <li>Permits "assignment" of the contract by the employer to others without the contractor's consent.                              Contractors beware this may increase your liability to others</li> </ul>	<ul style="list-style-type: none"> <li>Liability of contractor may extend to funders, purchasers and tenants in schedules of third-party rights or bespoke/JCT collateral warranties. May require the contractor to obtain collateral warranties for third parties from subcontractors.                              Third-party rights or collateral warranties: which should you choose? Confusion may result if a mix of options is used across project documents (see Building, 23 September, page 78)</li> </ul>	<ul style="list-style-type: none"> <li>Liability of the contractor may extend to funders, purchasers and tenants through collateral warranties only.                              Requires careful completion of contract particulars to activate relevant options</li> </ul>	<ul style="list-style-type: none"> <li>Rights of third parties under the Third Parties Rights Act excluded, and collateral warranties not provided for.                              Likely to be amended for even simple schemes to give rights to interested third parties</li> </ul>
<p><b>Insurance</b></p>	<ul style="list-style-type: none"> <li>Contractor to maintain professional indemnity insurance where stated in the contract particulars (see "Tip", left).</li> <li>Works insurance arrangements are flexible and policy documents are attached to contract. Allows for project insurance common on complex and PFI schemes</li> </ul>	<ul style="list-style-type: none"> <li>Contractor to maintain professional indemnity insurance where stated in the contract particulars.</li> <li>New, but familiar, works insurance options based on earlier JCT forms.                              The revised contract particulars mean it is now more important than ever to check that the insurance sections are correctly</li> </ul>	<ul style="list-style-type: none"> <li>Contractor to maintain professional indemnity insurance where stated in the contract particulars.</li> <li>New, but familiar, works insurance options are based on earlier JCT forms.</li> </ul>	<ul style="list-style-type: none"> <li>Professional indemnity insurance not provided for.                              With no express contract term to flag this up, employers would be wise to check that the contractor maintains professional indemnity insurance as part of the tender</li> </ul>