

Concise

Professional Services Contract 2018

Architectural Services

Client : to be confirmed

Project : Sample Project

Site Address : to be confirmed

Guidance Notes

These guidance notes explain the provisions of the RIBA Concise Professional Services Contract 2018 for the appointment of an Architect or Consultant providing architectural services and set out guidance on what to consider when completing the Contract Details and the Schedule of Services; they do not form part of the Contract.

Summary of the Contract

- The RIBA Concise Professional Services Contract 2018 is divided into four main parts:
 - the Agreement
 - the Contract Details
 - the Contract Conditions
 - Definition of Terms
 - Clauses
 - the Schedule of Services.
- A Contract Checklist is included for consideration before signing the Contract.
- Additional briefing documents will also form part of the Contract, if they are listed in item D of the Contract Details.
- The Contract is between the Client (the person or organisation that wishes to commission the professional services, known as the 'Services') and the Architect/Consultant (the person or organisation performing the 'Services'). Together they are referred to as the 'Parties' to the Contract.

When to Use this Contract

- The RIBA Concise Professional Services Contract is suitable where the Architect/Consultant undertakes a commission for architectural services for simple, non-complex, commercial projects of any value, in which the building works will be carried out using forms of building contract, such as the RIBA Concise Building Contract, the JCT Minor Works Building Contract or the JCT Intermediate Building Contract.
- The RIBA Concise Professional Services Contract is suitable for commissions procured on the basis of a traditional form of building contract where tendering occurs at the end of Stage 4 of the RIBA Plan of Work (Technical Design).
- The RIBA Concise Professional Services Contract is not suitable for the appointment of the Principal Designer under the CDM Regulations 2015. The RIBA recommends that the default choice for the Principal Designer should be the Architect/Consultant, who should be appointed under a separate and distinct professional services contract such as the *RIBA Principal Designer Professional Services Contract 2018*. If the Client fails to appoint a Principal Designer (for a

non-domestic client), the Client must fulfil the duties of the Principal Designer.

- The RIBA Concise Professional Services Contract is devised as an agreement between an Architect/Consultant and a business client or a public authority and is a 'construction contract' to which the Housing Grants, Construction and Regeneration Act 1996 (HGCRA, also known as the Construction Act), as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009, applies.
- Business clients include charities, religious organisations and not-for-profit bodies. Where the Client is a public authority, it may be necessary to include provisions relating to the Freedom of Information Act 2000 and to corrupt gifts and payments under the Bribery Act 2010.
- The RIBA Concise Professional Services Contract is not suitable for non-commercial work undertaken for a 'consumer' client, such as work done to the Client's home. The RIBA recommends the use of the *RIBA Domestic Professional Services Contract* for work undertaken for a consumer client.

Client's Rights and Obligations

- The Client has various obligations under the Contract. The principal ones are:
 - informing the Architect/Consultant of the Project requirements and of any subsequent changes required and agreeing steps to mitigate the consequences
 - providing the information which is necessary for the proper and timely performance of the Services
 - making decisions and giving approvals as necessary for the performance of the Services
 - paying the Architect/Consultant for the Services performed
 - appointing or otherwise engaging any Other Client Appointments required to perform work or services under separate agreements and requiring those appointed to collaborate with the Architect/Consultant.
- The Client also has rights under the Contract. The principal one is the right to suspend or terminate the Architect/Consultant's Services.

Architect/Consultant's Rights and Obligations

- The Architect/Consultant has various obligations under the Contract. The principal ones are:
 - exercising the reasonable skill, care and diligence to be expected from an Architect/Consultant experienced in the provision of such Services for projects of similar size, nature and complexity to the Project
 - performing the Services with due regard to the Project Brief
 - informing the Client of progress in the performance of the Services and, upon becoming aware, of any issue that may materially affect the Project Brief, Project Programme, Construction Cost or quality of the Project, and of any information, decision or action required in mitigation
 - collaborating with any Other Client Appointments appointed or otherwise engaged by the Client to perform work or services.

The obligations apply to the extent achievable using the standard of care outlined in clause 3.1

- The Architect/Consultant also has rights under the Contract. The principal ones are:
 - the right to retain copyright in the drawings and documents produced in performing the Services (the Client is given a licence to copy and use the drawings and documents for purposes related to the construction of the Project or its subsequent use or sale)
 - the right to suspend or terminate performance of the Services because of the Client's failure to pay any fees or other amounts due.

The Agreement

- The Agreement is the part of the Contract that is signed and dated by both Parties and records the Client's and the Architect/Consultant's rights and obligations under the Contract.
- The Parties choose whether to sign the Agreement as a simple contract or as a deed. The choice determines the statutory limitation period within which a Party can bring a claim for breach of contract:
 - simple contract: 6 years from Practical Completion or date of breach, if earlier
 - deed: 12 years from Practical Completion or date of breach, if earlier.

Completing the Contract Details

When completing the Contract Details, where an option APPLIES tick the box to confirm that the section has been adopted. It is also necessary that any amendments made by hand to the Contract are initialled by both Parties.

The Contract Details provide the specific details of the Project:

- **Items A and B – the Client and the Architect/Consultant:** Provide details of the Client, the Client's named representative, the Architect/Consultant and the Architect/Consultant's primary point of contact. Note that if these details are changed at a later date, it is important that the Parties inform each other and agree in writing.
- **Item C – Site Address:** Provide the address of the site where the Project is to be carried out.
- **Item D – Project Brief:** Provide a description of the Project and the Client's statement of requirements for the Project for which the Services are being provided. The target Construction Cost and target Project Programme, such as dates for obtaining planning consents or for the commencement and completion of construction works, can be inserted.
- **Item E – Other Client Appointments:** Give the details of any other consultant appointments (which could be individuals or organisations) to be made by the Client to enable the Architect/Consultant to undertake work in connection with the Project. For example, this may include structural and building services engineers, cost consultants, etc.
- **Items F, G, H and I – Basic Fee, Time Charges, Expenses and Payment:** Specify the basis for:
 - determining the calculation of the Basic Fee, e.g. a specified percentage applied to the Construction Cost, a fixed lump sum, time charges, design cost per square metre (gross or net) or any other agreed method (item F)

- stating the intended number and/or frequency of meetings and visual site inspections that the Architect/Consultant is going to attend during the Project (item F)
- recording the rates for any time charges (item G)
- setting out the arrangements for charging for expenses and disbursements (item H)
- the payment frequency of the fees (item I).

To ensure that the Architect/Consultant's accounts issued to the Client are effective as Payment Notices, as set out in clause 5.12, each invoice issued by the Architect/Consultant should incorporate the following wording:

This is the amount due in respect of the Services provided, calculated as set out in this invoice and in accordance with the Fees and Expenses agreed in our Professional Services Contract dated *[insert date of Contract]*. This invoice constitutes a Payment Notice complying with section 110A(3) of the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009. The payment due date is the date of this Payment Notice.

- **Item J – Professional Indemnity Insurance:** State the amount of professional indemnity insurance to be maintained for the Project, and any specific limitations in respect of claims arising on account of pollution or contamination or asbestos. The amount of professional indemnity insurance to be maintained for the Project should be reasonable in relation to the risks and should pass the reasonableness test under the Unfair Contract Terms Act 1977.
- **Item K – Dispute Resolution:** The Parties may choose which dispute resolution method(s) they will use should a dispute arise. Adjudication is available to either Party to select at any time as a statutory right. Below is a brief description of each method:
 - **Mediation** involves a third party helping the Parties to try to come to an agreement resolving their dispute. If managed well, mediation can be less expensive than other methods of dispute resolution and is therefore encouraged by the courts.
 - **Adjudication** involves a third party providing an independent decision on the dispute and is available to the Parties if the Contract is a Construction Contract under the Housing Grants, Construction and Regeneration Act 1996. The decision is binding in law unless one of the Parties refers the matter to arbitration or to litigation. Adjudication is generally a faster process, but not usually recommended for complex issues.
 - **Arbitration** is an alternative to court litigation and involves a third party (or parties) delivering a final and binding decision. Arbitration can involve only two parties so it would not normally be appropriate for multi-party disputes.
 - **Litigation** is an alternative to arbitration and involves a court delivering a final and binding decision.

If the Parties cannot reach agreement on a person to act as Mediator, Adjudicator or Arbitrator, the Contract provides that a nomination shall be made by the Royal Institute of British Architects.

The Client can refer a complaint to the appropriate professional body if the Architect/Consultant's conduct or competence appears to fall short of the standards in the relevant code(s) of professional conduct.

- **Item L – Information Formats:** If the Architect/Consultant is producing drawings and documents for the Project using Computer Aided Design (CAD), any other proprietary software, or Building Information Modelling (BIM), these will normally be provided to the Client in PDF format only, unless an alternative format has been agreed and set out in item L of the Contract Details.

The Schedule of Services

- The Schedule of Services is used to define the Services to be performed by the Architect/Consultant and maps the Services to the stages in the RIBA Plan of Work.
- The Schedule of Services relates to a straightforward project to be procured in the traditional manner. The Services are described in simple terms. Performance of the Services must be in accordance with the normal standards of the Architect/Consultant's profession.
- The completed Schedule of Services should accurately reflect the Client's requirements and the services that the Architect/Consultant has agreed to provide, particularly where the Architect/Consultant is not to perform the full range of Services within a stage, or is only undertaking certain stages, for example, only providing Services only up to the submission of a planning application. There is also a provision in the Contract for the Architect/Consultant to provide additional services for an additional fee (not listed in the Basic Fee).
- The Services being undertaken should be selected individually and ticked where an option APPLIES.

Contract Conditions

- The Contract Conditions set out in concise terms the rights and obligations of the Parties.

Agreement

This Agreement is between:

The Client (refer to item A of the Contract Details for full information)

Client Name

AND

The Architect/Consultant (refer to item B of the Contract Details for full information)

Bluelime Retail Ltd

Who agree as follows:

- The Architect/Consultant shall perform the Services set out in the Schedule of Services in accordance with the terms of the Contract.
- The Client shall pay the Architect/Consultant the fees and expenses set out in the Contract Details for the Services and shall perform the Client's obligations in accordance with the terms of the Contract.
- The Contract is the RIBA Concise Professional Services Contract 2018 for Architectural Services.

Signed/Executed as a:

simple contract deed

For and on behalf of the Client (complete as appropriate):

Client **is not** a registered company

Client **is** a registered company

Name:

Client Name

Signature:

Client's signature witnessed by:

Name:

Address:

Signature:

For and on behalf of the Architect/Consultant (complete as appropriate):

Architect/Consultant **is not** a registered company

Architect/Consultant **is** a registered company

Company registration number:

5778595

VAT registration number:

887742955

First signatory (Director/Partner/Member/Company Secretary):

Name:

Glenn Williams

Signature:

Architect/Consultant's signature witnessed by:

Name:

Barry Stott-Brookes

Address:

Thames Innovation Center, 2 Veridion Park, Veridion Way, Erith, Kent DA18 4AL

Signature:

Second signatory (Director/Partner/Member/Company Secretary) – optional:

Name:

Signature:

This Agreement is dated and delivered on:

14 July 2020

Contract Details

A. The Client

Name:

Client Name

Address:

Client Address

Telephone number:

Client Telephone Number

Email address:

Client Email Address

Named representative:

B. The Architect/Consultant

Name:

Bluelime Retail Ltd

Address:

The Engine House
2 Veridion Way
Veridion Park
Erith
Kent
DA18 4AL

Registered address:

Gwynfa House
677 Princes Road
Dartford
Kent
DA2 6EF

Telephone number: 01322521026

Email address: office@bluelimeprojects.com

Named representative: Glenn Williams

C. Site Address

to be confirmed

D. Project Brief

Project description and Client's statement of requirements: to be confirmed

Additional briefing documents provided (include reference numbers and dates)

Document	Reference number	Date
Design Report Fee Proposal	From Job List	Enter date

Construction Cost

The Construction Cost, as defined in the Contract Conditions, is: tbc

Note

The Construction Cost noted above is not the Architect/Consultants estimate of how much the building work will cost. It is the Architect/Consultant understanding of the clients budget for the building work. The Architect/Consultant does not confirm whether this budget is achievable or not and cannot be held responsible if later design budgets or construction work quotations by builders is more. It is impossible to estimate the build cost accurately at this stage and the Architect/Consultant cannot be held responsible for any inaccuracies or deviation from the Construction Cost. The client hereby agrees to check they are happy with all budgets provided during the design phase and by moving to the next phase of the project in effect represents their acceptance that the budgets are an approximate estimate and under no circumstances can the Architect/Consultant be held responsible for any inaccuracies or deviations of design budgets or builders quotations from the original construction cost.

Project Programme

Item	Target date
Submission of Pre-Planning Application	tbc

E. Other Client Appointments

List any other consultants or services appointments which have been or will need to be made by the Client to enable the Architect/Consultant to undertake its work in connection with the Project:

Role:	Structural Designs & Calculations
Role:	Mechanical & Electrical Design
Role:	Fire Consultant
Role:	Building Control
Role:	Planning Consultant
Role:	SAP/Energy Assessor
Role:	Topography Survey
Role:	Drainage Survey
Role:	Utility providers for new water, gas, electrical, telecoms supplies
Role:	Air Test Assessor
Role:	Professional Quantity Surveyor
Role:	Other Specialists to be confirmed when known

F. Basic Fee

State the basis of the Basic Fee at each stage, e.g. specified percentage of Construction Cost, fixed lump sum, time charge, design cost per square metre (gross or net) or other agreed method. Fees may be a total for each stage or apportioned to the specified roles being undertaken.

The roles and tasks are to be as stated in the Schedule of Services and the fees, excluding VAT, are as follows and are to be paid in accordance with item I of the Contract Details:

Stage	Notes	Fee
RIBA Stage 0	Strategic Definition	N/A
RIBA Stage 1	Preparation & Briefing (Feasibility Study)	tbc
RIBA Stage 2	Concept design (Further development of Feasibility Designs)	tbc
RIBA Stage 3	Spacial Coordination (To Planning Application Stage)	tbc

RIBA Stage 4a	Technical Design (To Building Control Application Stage)	tbc
RIBA Stage 4b	Technical Design (Further development of Building Control Drawings for Construction)	tbc

Other services

RIBA Stage 5	Manufacturing & Construction (Contract Administration Role by Architect)	tbc if required
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Total Basic Fee (Excluding VAT)

tbc

VAT

State whether VAT applies to the Basic Fee:

VAT applies

VAT does not apply

Meetings

The Architect/Consultant shall attend the following meetings during the Project:

Stage	Purpose	Total number and/or frequency allowed for	Fee included in Basic Fee	Fee charged on Time Basis
Stage 0	N/A	0	<input type="checkbox"/>	<input type="checkbox"/>
Stage 1	Develop brief and site survey	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stage 2	Site check/client meeting	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stage 3	1 Planning meeting on site and 1 in planning office	2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stage 4	Site meeting with specialists	2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stage 5	tbc if required	0	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stage 6	tbc if required	0	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stage 7	tbc if required	0	<input type="checkbox"/>	<input checked="" type="checkbox"/>

It is anticipated that meetings at Stage 7 will be commissioned as a separate professional services or operating contract.

Site inspections

The Architect/Consultant shall visit the site for the purposes set out in the Schedule of Services as follows:

Stage	Total number and/or frequency allowed for	Fee included in Basic Fee	Fee charged on Time Basis
Stage 5	tbc if required	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stage 6	tbc if required	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Where additional site inspections are necessary, or requested in writing by the Client, in addition to those identified above, the Architect/Consultant shall apply time charges, as set out in item G of the Contract Details.

G. Time Charges

Time charges for any additional fees, and/or where the Basic Fee incorporates time charges, shall be calculated on the basis of the following rates:

Person/grade	Rate, excluding VAT	Per Hour	Per Day
Director	£ 180.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Architect (RIBA Part 3)	£ 150.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lead Designer (RIBA Part 2/Equivalent)	£ 100.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Architectural Assistant/Technologist	£ 80.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Structural Engineer	£ 180.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Project Manager	£ 150.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>

H. Expenses

The specified expenses listed below, excluding VAT, shall be charged:

- at net cost plus a handling charge, which shall be calculated at the following percentage of net cost 15 %
- by the addition of the following fee to the total fee
- by the addition of the following percentage to the Basic Fee
- other (please specify)

Set out the details of the specified expenses:

Other expenses, including disbursements, such as payments to the local authority for planning and Building Regulations submissions, shall be charged at net cost plus the following percentage of net cost 33 %

Where applicable, travel shall be charged at the following rate per mile £ 0.45

Hard copies of drawings and documents shall be charged at the following rate per page:

	A4	A3	A2	A1	A0
Black and white	£ 0.50	£ 1.00	£ 2.00	£ 3.00	£ 4.00
Full colour	£ 0.80	£ 2.00	£ 4.00	£ 5.00	£ 6.00

I. Payment

Payment Notices for instalments of fees shall be issued and paid:

- on a weekly basis
- on a monthly basis
- at the end of each stage
- in accordance with the agreed draw-down schedule dated
- other (please specify)

At the start of each Stage

J. Professional Indemnity Insurance

The amount of professional indemnity insurance cover to be maintained for the Project in respect of each and every claim or series of claims arising out of the same originating cause shall be: £250,000

Professional indemnity insurance cover shall be maintained by the Architect/Consultant for the above amount, except for claims arising out of:

- pollution or contamination, with an annual aggregate limit of

asbestos, with an annual aggregate limit of

K. Dispute Resolution

Mediation

The Parties may agree to try to resolve their differences through mediation without prejudice to any other dispute resolution rights.

Adjudication

Either Party has the statutory right (but no obligation) to refer a dispute, at any time, to adjudication. If it so chooses, the Scheme for Construction Contracts (England and Wales) Regulations 1998 as amended shall apply. The Adjudicator's decision is binding unless the dispute is subsequently referred to arbitration or litigation.

Final Dispute Resolution Process

Arbitration The Parties select arbitration for final dispute resolution.

Litigation The Parties select court proceedings for final dispute resolution.

If the Parties cannot reach agreement on a person to act as Mediator, Adjudicator or Arbitrator, a nomination shall be made by the Royal Institute of British Architects.

L. Information Formats

This relates to electronic drawings and documents produced by the Architect/Consultant using Computer Aided Design (CAD), any other proprietary software, or Building Information Modelling (BIM) in connection with the Services.

Information, drawings and documents produced by the Architect/Consultant shall be provided to the Client in:

PDF format only

the agreed formats listed below

accordance with the agreed BIM protocol

Contract Conditions

Definition of Terms

Architect*/Consultant : the person or organisation that the Client appoints to perform the Services.

Basic Fee : the fee for the Services excluding VAT and any additional charges, such as expenses, disbursements, etc.

Building Contract : the contract between the Client and the Contractor for the construction of the Project.

CDM Regulations 2015 : the Construction (Design and Management) Regulations 2015 and any guidance as issued, amended or replaced from time to time by the Health & Safety Executive, which govern the management of health, safety and welfare for construction projects.

Client : the person or organisation referred to in item A of the Contract Details. This also includes the Client's representative where one is appointed by the Client with full authority to act on behalf of the Client for all purposes in connection with the matters set out in the Contract, except where advised to the contrary.

Confidential Information : all information relating to the Project and the Client and Architect/Consultant's business and affairs which either Party directly or indirectly receives or acquires from the other Party or any representative of the other Party whether in writing, by electronic mail or verbally and which is not otherwise already in the public domain.

Construction Cost : the Client's target cost for the building works as specified in the Project Brief, as set out in item D of the Contract Details (being the Client's initial budget), and subsequently the latest estimate approved by the Client or, where applicable, the actual cost of constructing the Project upon agreement or determination of the final account for the Project. The Construction Cost includes the cost of any equipment and/or materials provided or to be provided by the Client to the Contractor for installation as part of the Project, and any direct works carried out by or on behalf of the Client. The Construction Cost excludes VAT, professional fees, the cost of resolution of any dispute, the Client's legal and in-house expenses and any loss and/or expense payments made to the Contractor or any adjustment for any liquidated damages deducted by the Client.

Contractor : the party referred to as the Contractor in the Building Contract.

Final Date for Payment : the date, specified in clause 5.13, by which a payment that is due shall be paid.

Health and Safety File : the file required by the CDM Regulations 2015, which contains relevant health and safety information needed to allow future construction works, including cleaning, maintenance, alternations, refurbishment and demolition, to be carried out safely.

Notified Sum : the sum set out in a Payment Notice or in a default notice.

Other Client Appointments : other consultants or services appointments which have been, or will need to be, made by the Client to enable the Architect/Consultant to undertake its work in connection with the Project.

Party/Parties : the signatories to the Agreement: the Client and the Architect/Consultant described in items A and B of the Contract Details.

Payment Notice : a notice that the Architect/Consultant issues to the Client, in accordance with clauses 5.10 to 5.15, showing the payment that the Architect/Consultant considers is due and how it was calculated.

Practical Completion : when the works are so certified under the terms of the Building Contract.

Principal Contractor : is a contractor appointed by the Client as Principal Contractor under the CDM Regulations 2015.

Principal Designer : is a designer appointed by the Client as Principal Designer under the CDM Regulations 2015.

Project : as described in the Project Brief, item D of the Contract Details.

Project Brief : the Client's requirements for the Project, as initially set out in item D of the Contract Details, and including any revisions made by the Architect/Consultant and approved by the Client.

Project Programme : the Client's initial programme for the Project, as specified in item D of the Contract Details, and including any revisions made by the Architect/Consultant and approved by the Client.

Schedule of Services : the schedule specifying the Services and additional services to be undertaken by the Architect/Consultant in connection with the Project, which is incorporated into the Contract.

Services : the professional services to be performed by the Architect/Consultant specified in the Schedule of Services, which may be varied by agreement.

** 'Architect' is a legally protected title in the UK, which can only be used by people registered under the Architects Act 1997 with the Architects Registration Board (ARB).*

Clauses

1. General Interpretation

- 1.1 Where under the Contract an action is required to be taken within a specified period, in calculating a period, a day shall be a calendar day and a date shall be a calendar date. When a period is calculated it shall exclude Saturdays, Sundays and public holidays.
- 1.2 The provisions of the Contract continue to bind the Client and the Architect/Consultant as long as is necessary to give effect to the Parties' respective rights and obligations.
- 1.3 The Contract supersedes any previous agreement or arrangements between the Client and the Architect/Consultant in relation to the Services (whether oral or written) and represents the entire agreement between the Client and the Architect/Consultant in relation to the Services. All additions, amendments and variations to the Contract shall be binding only if in writing and signed by the duly authorised representatives of both the Client and the Architect/Consultant. The Client and the Architect/Consultant shall not claim to have relied upon any statements or representations made by the other Party other than those set out in the Contract.
- 1.4 If any clause or part of any clause of the Contract is ruled by the courts or declared to be invalid or unenforceable in any way, it shall be severed from the Contract and this shall not affect any other clause of the Contract, nor the validity of the remaining clauses of the Contract, which shall remain in full force.
- 1.5 The Contract is subject to the law of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.
- 1.6 Subject to clause 3.1 of the Contract Conditions, to the extent that either Party processes personal data, as part of the Contract, the Party undertakes to do so in compliance with the General Data Protection Regulation (GDPR) and to keep such personal data in a secure technological environment.

2. Client's Responsibilities

- 2.1 The Client shall:
- 2.1.1 ~~inform the Architect/Consultant of the Project Brief, the Construction Cost, the Project Programme and the Services required and of any subsequent changes required and agree steps to mitigate the consequences~~
inform the Architect/Consultant of the Project Brief, the Construction Cost, the Project Programme and the Services required and of any subsequent changes required and agree steps to mitigate the consequences. The construction cost must be confirmed by the client before commencement of the design services by the Architect/Consultant. In the event the construction cost is not confirmed by the client prior to the Architect/Consultant commencing with the designs, any later re-design required to achieve a later provided construction cost will be charged on a time charge basis as set out in Section G.
- 2.1.2 provide to the Architect/Consultant, free of charge, information in the Client's possession, or which is reasonably obtainable, and which is necessary for the proper and timely performance of the Services, and the Architect/Consultant shall be entitled to rely on such information
- 2.1.3 make decisions and give approvals as necessary for the proper and timely performance of the Services
- 2.1.4 appoint or otherwise engage any Other Client Appointments required to perform work or services under separate agreements and require them to collaborate with the Architect/Consultant. The Client shall confirm in writing to the Architect/Consultant the work or services to be performed by any Other Client Appointments
- 2.1.5 hold the Other Client Appointments, and not the Architect/Consultant, responsible for the proper carrying out and completion of the work or services entrusted to them under any Other Client Appointments
- 2.1.6 hold the Contractor(s) appointed to undertake construction works, and not the Architect/Consultant, responsible for the proper carrying out and completion of construction works in compliance with the Building Contract

- 2.1.7 where the Architect/Consultant is appointed as Contract Administrator for the Building Contract, not deal with the Contractor(s) directly or interfere with the Architect/Consultant's duties under the Building Contract
- 2.1.8 not hold the Architect/Consultant responsible for any instructions issued by the Client to the Other Client Appointments or Contractor
- 2.1.9 pay any statutory charges and any fees, expenses and disbursements in respect of any obligations for planning, building control and other consents.
- 2.1.10 allow at least a 10% contingency amount in addition to the construction cost for unplanned/unforeseeable works. The Architect/Consultant will not be liable for any increase to the construction cost whether the additional work was foreseeable or not.
- 2.1.11 pay to the Architect/Consultant any additional fees on a time charge basis as set out in Section G for revising of designs after they have been approved by the client whether in writing or otherwise. For the avoidance of doubt and in the absence of any obvious approval, designs submitted for planning permission are considered approved. Similarly revisions to technical designs required after client approval whether in writing or otherwise will also incur additional fees on a time charge basis as set out in Section G. For the avoidance of doubt and in the absence of any obvious approval, technical designs submitted for building control approval are considered approved.
- 2.1.12 not commence any works on site without ensuring the following:
- 1) Any planning conditions have been removed
 - 2) Building Control non conditional plan approval is in place
 - 3) If using approved inspectors that 5 day notice has been placed on the local authority
 - 4) Building Control have been notified at least 7 days in advance
 - 5) First site inspection date been confirmed to Building Control
 - 6) Notifying the Architect/Consultant
- 2.1.13 pay the Architect/Consultant any additional fees on a time charge basis as set out in Section G for further design revisions/options beyond the amount allowed for within the service package chosen
- 2.1.14 ensure the contractor they use for the building works is a Master Builder/Main Contractor as defined by the Federation of Master Builders and building works will not be split into various sub contract packages where the client is directly responsible for each work package. In the event building works do get split into various sub contract packages whereby there is no Master Builder/Main Contractor appointed by the client, the Architect/Consultant will not be required to provide additional design information or answer queries during the build phase and the Architect/Consultant has the right to terminate the contract.
- 2.2 The Client may issue reasonable instructions to the Architect/Consultant. The Client's named representative, as indicated in item A of the Contract Details, shall have full authority to act on behalf of the Client for all purposes in connection with the matters set out in the Contract.
- 2.3 The Client acknowledges that the Architect/Consultant does not warrant:
- 2.3.1 that planning permission and other approvals from third parties shall be granted at all or, if granted, will be granted in accordance with any anticipated timescale
- 2.3.2 compliance with any Project Programme and Construction Cost, which may need to be reviewed for, but not limited to:
- (a) variations instructed by the Client
 - (b) fluctuations in market prices
 - (c) delays caused by any Other Client Appointments, the Contractor or any other factor that is not the responsibility of the Architect/Consultant under the Contract
 - (d) the discovery at any time of previously unknown conditions which were not reasonably foreseeable at the date of the Contract
- 2.3.3 the competence, performance, work, services, products or solvency of any Other Client Appointments or the Contractor.

2.3.4 that the construction cost is an accurate estimation of the likely build cost. Nor that any building budgets, estimates, construction costs provided by the Architect/Consultant or other service providers appointed by the Architect/Consultant are an accurate estimation of the likely build cost. Under no circumstances shall the Architect/Consultant be held liable for any inaccuracies or errors relating to building budgets, estimates, construction costs provided. This clause supersedes any clause to the contrary that may be contained within the building contract with the contractor.

2.4 The Client shall not disclose Confidential Information unless:

2.4.1 disclosure is necessary to take professional advice in relation to the Contract or the Services

2.4.2 it is already in the public domain other than due to wrongful use or disclosure by the Client

2.4.3 disclosure is required by law or because of disputes arising out of or in connection with the Contract.

3. Architect/Consultant's Responsibilities

3.1 In the performance of the Services, and discharging all the obligations under the Contract, the Architect/Consultant will exercise the reasonable skill, care and diligence to be expected of an Architect/Consultant experienced in the provision of such services for projects of a similar size, nature and complexity to the Project. Notwithstanding anything that may appear elsewhere to the contrary, whether under this Contract or otherwise, the Architect/Consultant's duties and obligations shall be deemed to be subject to the exercise of such reasonable skill, care and diligence and nothing contained in this Agreement or elsewhere shall be construed as imposing on the Architect/Consultant any greater duty than the exercise of such reasonable skill, care and diligence.

3.2 The Architect/Consultant shall:

3.2.1 perform the Services with due regard to the Project Brief

3.2.2 inform the Client of progress in the performance of the Services and, upon becoming aware, of any issue that may materially affect the Project Brief, Project Programme, Construction Cost or quality of the Project, and any information, decision or action required in mitigation

3.2.3 inform the Client of a need to make any Other Client Appointments to perform work in connection with the Project and/or any information, decision or action required from the Client or Other Client Appointments in connection with the performance of the Services

3.2.4 act on behalf of the Client in the matters set out in the Contract or in relation to any project procedures agreed with the Client from time to time, subject to the Client's prior written approval

3.2.5 if acting as Contract Administrator for the Building Contract, exercise impartial and independent judgement when acting as an intermediary between the Client and the Contractor

3.2.6 collaborate with any Other Client Appointments named in the Contract Details or any other parties who might reasonably be expected to perform work or services and, where indicated in the Services, the Architect/Consultant shall co-ordinate relevant information received from such persons with the Architect/Consultant's design, but the Architect/Consultant shall not be responsible for the content of the information received

3.2.7 make no material alteration to the Services or the approved design without the prior written consent of the Client, except in an emergency, whereupon the Architect/Consultant shall confirm such actions to the Client without delay.

3.3 ~~The Architect/Consultant shall have the right to publish photographs of the Project, and the Client shall give reasonable access to the Project for this purpose for 2 years after Practical Completion. The Architect/Consultant shall obtain written consent from the Client, which shall not be unreasonably withheld or delayed, before the publication of any information about the Project, unless reasonably necessary for the performance of the Services.~~

The Architect/Consultant shall have the right to publish project information such as client name, address, construction cost, photographs and designs for marketing purposes unless the client specifically denies the right in writing or amendment to this clause within the contract

- 3.4 ~~The Architect/Consultant shall not disclose Confidential Information unless:~~
For the avoidance of doubt the Client must clearly define in writing what they consider to be confidential information. In the absence of such a definition it is considered project information such as client name, address, construction cost, photographs and designs is not confidential Information.

The Architect/Consultant shall not disclose Confidential Information unless:

- 3.4.1 disclosure is necessary for the proper performance of the Services, or in order to take professional advice in relation to the Contract or the Services, or in order to obtain/maintain insurance cover as required by the Contract
- 3.4.2 it is already in the public domain other than due to wrongful use or disclosure by the Architect/Consultant
- 3.4.3 disclosure is required by law or because of disputes arising out of or in connection with the Contract.

4. Assignment, Sub-contracting and Novation

- 4.1 Neither the Architect/Consultant nor the Client shall at any time assign the benefit of the Contract or any rights arising under it without the prior written consent of the other. Such consent shall not be unreasonably withheld or delayed.
- 4.2 ~~The Architect/Consultant shall not sub-contract performance of any part of the Services without the prior consent of the Client, and such consent shall not be unreasonably withheld or delayed.~~
- 4.3 The Parties may, by agreement, novate the Contract on terms to be agreed

5. Fees and Expenses

- 5.1 The fees for performance of the Services and/or any additional services shall be calculated in accordance with this clause and as specified in the Contract Details.
- 5.2 The Basic Fee for performance of the Services shall be as specified in item F of the Contract Details and may be any or a combination of:
- 5.2.1 ~~the specified percentage or percentages applied to the Construction Cost. Until the actual cost of the building work is known, the percentages are applied to the latest approved estimate of the cost of the building works or the Building Contract sum. The total fee shall be adjusted based on the final Construction Cost on completion of the Services. The cost shall exclude VAT, fees and any claims made by or against the Contractor(s)~~
the specified percentage or percentages applied to the Construction Cost. Until the actual cost of the building work is known, the percentages are applied to the latest approved estimate of the cost of the building works or the Building Contract sum. The total fee shall be adjusted based on the final Construction Cost on completion of the Services. The cost shall exclude VAT, fees and any claims made by or against the Contractor(s). This clause will apply even if Item F is priced as lump sums. In the event the construction cost increases or the actual cost of the building work increases beyond the stated construction cost in this contract the percentage that equates to the total basic fee in item F divided by the original construction cost stated in this contract will be applied to the increased amount. In the event the construction cost decreases or the actual cost of the building work decreases beyond the stated construction cost in this contract no reduction in fee will be applied.
- 5.2.2 the separate percentages specified for each RIBA Plan of Work stage applied to the Construction Cost at the end of the previous stage
- 5.2.3 the specified lump sum or sums

- 5.2.4 the time charges ascertained by multiplying the time reasonably spent in the performance of the Services by the specified hourly or daily rate for the relevant personnel, as set out in item G of the Contract Details. Time 'reasonably spent' includes the time spent in connection with performance of the Services in travelling from and returning to the Architect/Consultant's office
- 5.2.5 any other agreed method.
- 5.3 Lump sums and rates for time charges, mileage and printing shall be revised every 12 months in accordance with changes in the Consumer Prices Index. Each 12-month period commences on the anniversary of the date of the Contract.
- 5.4 The Basic Fee shall be adjusted:
- 5.4.1 including due allowance for any loss and/or expense, if material changes are made to the Project Brief and/or the latest approved estimate of the cost of the building work and/or Project Programme save to the extent that any changes arise from a breach of the Contract by the Architect/Consultant, and/or the Services are varied by agreement
- 5.4.2 where percentage fees in accordance with clause 5.2.1 or 5.2.2 apply, to compensate for any reduction of the Construction Cost arising solely from deflationary market conditions not prevailing at the date of the Contract.
- 5.5 If the Architect/Consultant is involved in extra work or incurs extra expense for reasons beyond the Architect/Consultant's reasonable control, additional fees shall be calculated on a time basis in accordance with clause 5.2.4 at the rate(s) set out in item G of the Contract Details where:
- 5.5.1 the cost of any work, installation or equipment, in connection with which the Architect/Consultant performs Services, is not included in the Construction Cost
- 5.5.2 the Architect/Consultant is required to vary any Service already commenced or completed or to provide a new design after the Client has authorised development of an approved design
- 5.5.3 the nature of the Project reasonably requires that substantial parts of the design are not completed or that they are specified provisionally or approximately before construction commences
- 5.5.4 performance of the Services is delayed, disrupted or prolonged.
- 5.5.5 a complete re-design is required due to unforeseen circumstances whether political or otherwise or as a result of a planning application refusal.
- 5.6 The Architect/Consultant shall inform the Client on becoming aware that clause 5.5 shall apply. Clause 5.5 shall not apply to the extent that any change or extra work or expense arises from a breach of the Contract by the Architect/Consultant.
- 5.7 The Client shall reimburse the Architect/Consultant for expenses and disbursements in the manner specified in item H of the Contract Details.
- 5.8 The Architect/Consultant shall maintain records of time spent on Services performed on a time basis and for any expenses and disbursements to be reimbursed at net cost. The Architect/Consultant shall make such records available to the Client on reasonable request.
- 5.9 Where the Architect/Consultant is instructed by the Client to invite a tender or tenders for work or services in connection with the Project but no tender is submitted or accepted, the Architect/Consultant shall be entitled to fees due up to and including the receipt of tenders based on the construction work or that part of it relating to the Services current at the date of tender.
- Payment Notices**
- 5.10 The Architect/Consultant shall issue Payment Notices at the intervals specified in item I of the Contract Details.
- 5.11 In the event of non-payment of any amount properly due to the Architect/Consultant under the Contract, the Architect/Consultant is entitled to interest on the unpaid amounts under the provisions of clause 5.22. The Architect/Consultant may:
- 5.11.1 suspend use of the copyright licence under the provisions of clause 6
- 5.11.2 suspend or terminate performance of the Services and other obligations under the provisions of clause 9

5.11.3 commence dispute resolution procedures and/or debt recovery procedures.

5.12 Each Payment Notice shall comprise the Architect/Consultant's account, setting out any accrued instalments of the fee and other amounts due, less any amounts previously paid, and stating the basis of calculation of the amount specified, which shall be the Notified Sum. The payment due date shall be the date of the Architect/Consultant's Payment Notice. Instalments of fees shall be calculated on the Architect/Consultant's reasonable estimate of the percentage of completion of the Services or stages or other services or any other specified method.

5.13 ~~The Client shall pay the Notified Sum within 14 days of the date of issue of the relevant Payment Notice (which shall be the Final Date for Payment) unless:~~

The Client shall pay the Notified Sum within 14 days of the date of issue of the relevant Payment Notice/Invoice or due date stated on invoice whichever is sooner (which shall be the Final Date for Payment) unless:

5.13.1 the Architect/Consultant has become insolvent (as defined in the Housing Grants, Construction and Regeneration Act 1996) at any time between the last date on which the Client could have issued the notice under clause 5.16 and the Final Date for Payment

5.13.2 the Client issues a notice under clause 5.16.

5.14 The Client shall not delay payment of any undisputed part of the Notified Sum.

5.15 The Architect/Consultant shall submit the final Payment Notice for fees and any other amounts due when the Architect/Consultant reasonably considers the Services have been completed.

Notice of Intention to Pay Less

5.16 If the Client intends to pay less than the Notified Sum, the Client shall give a written notice to the Architect/Consultant not later than 5 days before the Final Date for Payment, specifying:

5.16.1 the amount that the Client considers to be due on the date the notice is served

5.16.2 the basis on which that sum is calculated

5.16.3 the ground for doing so or, if there is more than one ground, each ground and the amount attributable to it.

5.17 The Client shall, on or before the Final Date for Payment, make payment to the Architect/Consultant of the amount, if any, specified in the written notice.

5.18 If no such notice is given, the amount due and payable shall be the Notified Sum stated as due in the Architect/Consultant's account. The Client shall not delay payment of any undisputed part of the account.

5.19 If the Client issues such a notice and the matter is referred to an Adjudicator who decides that an additional sum, greater than the amount stated in the notice of intention to pay less, is due, the Client shall pay that sum within 7 days of the date of the decision or the date which, in the absence of the notice, would have been the Final Date for Payment.

5.20 The Client shall not withhold any amount due to the Architect/Consultant under the Contract unless the amount has been agreed with the Architect/Consultant or has been decided by any tribunal to which the matter is referred as not being due to the Architect/Consultant. All rights of set-off at common law or in equity which the Client would otherwise be entitled to exercise are expressly excluded.

5.21 If the performance of any or all of the Services and/or obligations is suspended or terminated, the Architect/Consultant shall be entitled to:

5.21.1 payment of any part of the fee and other amounts properly due to the date of the last instalment and a fair and reasonable amount up to the date of suspension or termination to reflect any work undertaken but not completed at the time of suspension or termination and payment of any licence fee due under clause 6

5.21.2 reimbursement of any loss and/or damages caused to the Architect/Consultant due to the suspension or the termination, except where the Architect/Consultant is in material or persistent breach of the obligations under the Contract.

- 5.22 In the event that any amounts are not paid when properly due, the Architect/Consultant shall be entitled to simple interest on such amounts until the date that payment is received at 8% per year over the dealing rate of the Bank of England, current at the date that payment becomes overdue, together with such costs as are reasonably incurred by the Architect/Consultant (including costs of time spent by principals, employees and advisers) in obtaining payment of any sums due under the Contract.
- 5.23 The Client or the Architect/Consultant shall pay to the other Party who successfully pursues, resists or defends any claim or part of a claim brought by the other:
- 5.23.1 such costs as are reasonably incurred (including costs of time spent by principals, employees and advisers) where the matter is resolved by negotiation or mediation
- 5.23.2 such costs as may be determined by any dispute resolution body, to which the matter is referred.
- 5.24 In addition to the fees and expenses, the Client shall pay any VAT chargeable on the Architect/Consultant's fees and expenses.

6. Copyright and Licence

- 6.1 The Architect/Consultant shall own all intellectual property rights, including the copyright in the drawings and documents produced in performing the Services, and this clause generally asserts the Architect/Consultant's moral right to be identified as the author of such work.
- 6.2 No part of any design by the Architect/Consultant may be registered under the Registered Designs Regulations 2001 by the Client without the written consent of the Architect/Consultant.
- 6.3 The Client shall have a licence to copy and use such of the drawings and documents for which all fees and other amounts properly due have been paid, only for purposes related to construction of the Project or its subsequent use or sale, but they may not be used for reproduction of the design for any part of any extension of the Project or any other project without the Architect/Consultant's written consent.
- 6.4 Where produced using CAD, BIM or other proprietary software, drawings and documents shall be provided to the Client in PDF format only, unless an alternative format has been agreed and set out in item L of the Contract Details.
- 6.5 Copying or use of the drawings and documents by any Other Client Appointments providing services to the Project shall be deemed to be permitted under a sub-licence granted by the Client, whether such drawings and documents were issued by the Client or on the Client's behalf.
- 6.6 The Architect/Consultant shall be liable to the Client in respect of any reasonably foreseeable and fully mitigated expenses, losses or damages suffered by the Client as a result of the work of the Architect/Consultant being in breach of copyright or any other intellectual rights of any third party.
- 6.7 The Architect/Consultant shall not be liable for any use of the drawings and documents other than for the purpose for which they were prepared and provided by the Architect/Consultant.

7. Architect/Consultant's Liability

- 7.1 No action or proceedings arising out of or in connection with the Contract whether in contract, in tort, for negligence or breach of statutory duty or otherwise shall be commenced after the expiry of 6 or 12 years, depending on how the Contract is executed, from the date of Practical Completion or the date of completion of the last Services, whichever is the earlier.
- 7.2 In any such action or proceedings:
- 7.2.1 the Architect/Consultant's liability for loss or damage shall not exceed the amount of the Architect/Consultant's professional indemnity insurance specified in item J of the Contract Details
- 7.2.2 no employee of the Architect/Consultant or any agent of the Architect/Consultant shall be personally liable to the Client for any negligence, default or any other liability whatsoever arising from performance of the Services.

- 7.3 In respect of any claim by the Client under the Contract, and without prejudice to the provisions of clause 7.2.1, the Architect/Consultant's liability shall be limited to such sum as shall be agreed between the Parties or adjudged by the court to be the proportion of the loss to the Client caused by the Architect/Consultant's failure to exercise reasonable skill, care and diligence in the performance of its duties under the Contract. This proportion is to be calculated on the basis that:
- 7.3.1 all other consultants, contractors and Other Client Appointments providing work or services for the Project are deemed to have provided to the Client contractual undertakings in respect of their work or services on terms materially no less onerous than those which apply to the Architect/Consultant under the Contract
 - 7.3.2 there are deemed to be no exclusions or limitations of liability or joint insurance or co-insurance provisions between the Client and any other persons referred to in this clause
 - 7.3.3 all the persons referred to in this clause are deemed to have paid to the Client such sums as it would be just and equitable for them to pay, having regard to the extent of their responsibility for that loss and/or damage.

8. Professional Indemnity Insurance

- 8.1 The Architect/Consultant shall maintain, until the expiry of the period specified in clause 7.1, professional indemnity insurance with a limit of indemnity not less than the amount or amounts specified in item J of the Contract Details, provided such insurance continues to be offered on commercially reasonable terms to the Architect/Consultant at the time when the insurance is taken out or renewed. The Architect/Consultant shall inform the Client if such insurance ceases to be available on commercially reasonable terms. The Architect/Consultant, when reasonably requested by the Client, shall produce for inspection a broker's letter or certificate confirming that such insurance has been obtained and/or is being maintained.
- 8.2 The Architect/Consultant shall inform the Client if such insurance ceases to be available on commercially reasonable terms or, subsequent to the date of the Contract, any restrictions are attached to the policy or an aggregate limit applies to any matters other than those specified in the Contract Details in order that the Architect/Consultant and the Client can discuss the best means of protecting their respective positions.
- 8.3 Nothing in the Contract confers any right to enforce any of its terms on any person who is not a party to it, other than lawful assignees.

9. Suspension or Termination

- 9.1 The Client may suspend or terminate performance of any or all of the Services and other obligations under the Contract by giving the Architect/Consultant at least 7 days' written notice and stating the reason for doing so.
- 9.2 The Architect/Consultant may suspend or terminate performance of any or all of the Services and other obligations under the Contract by giving the Client at least 7 days' written notice and stating the grounds on which it intends to do so. Such grounds are limited to:
 - 9.2.1 the Client's failure to pay any fees or other amounts due by the Final Date for Payment unless, where applicable, the Client has given effective notice under clause 5.16 of the intention to pay less than the amount stated in the Architect/Consultant's Payment Notice
 - 9.2.2 that the Client is in material or persistent breach of its obligations under the Contract
 - 9.2.3 that the Architect/Consultant is prevented from or impeded in performing the Services for reasons beyond the Architect/Consultant's control
 - 9.2.4 force majeure
 - 9.2.5 any other reasonable grounds for suspension or termination of the Contract.

- 9.3 In the event of suspension or termination, the Architect/Consultant shall cease performance of the Services and/or other obligations under the Contract in an orderly and economical manner on the expiry of the notice period after receipt or issue of a notice of suspension or termination.
- 9.4 If the reason for a notice of suspension or termination arises from a default:
- 9.4.1 which is remedied, the Architect/Consultant shall resume performance of the Services and other obligations under the Contract within a reasonable period
- 9.4.2 which is not remedied by the defaulting Party, the Contract shall be ended by the non-defaulting Party giving at least 7 days' further written notice.
- 9.5 Where Services are suspended by either Party after serving notice under clause 9.1 or clause 9.2 and not resumed within 6 months, the Architect/Consultant has the right to treat performance of the Services as ended on giving at least 7 days' further written notice to the Client.
- 9.6 Any period of suspension arising from a valid notice given under clause 9.1 or clause 9.2 shall be disregarded in computing, for the purposes of any specified time limit, the time taken by the Architect/Consultant to complete any work directly or indirectly affected by the exercise of the right of the Architect/Consultant to suspend performance.
- 9.7 Performance of the Services and/or other obligations may be terminated immediately by notice from either Party if:
- 9.7.1 the other Party becomes bankrupt or is subject to a receiving or administration order, and/or goes into liquidation, and/or becomes insolvent, and/or makes any arrangements with creditors
- 9.7.2 the other Party becomes unable to perform its obligations through death or incapacity.
- 9.8 On termination of performance of the Services and/or other obligations under the Contract, a copy of any drawings and documents produced pursuant to the Services and not previously provided by the Architect/Consultant to the Client shall be delivered to the Client by the Architect/Consultant, subject to the terms of the licence under clause 6.3 and payment of any outstanding fees and other amounts due plus the reasonable expenses of the Architect/Consultant.

10. Dispute Resolution

Mediation

- 10.1 Subject to clause 10.2, the Parties may attempt to settle the dispute, in the first instance, by mediation as specified in item K of the Contract Details.

Adjudication

- 10.2 Either Party may, under its statutory rights, give notice at any time of its intention to refer a dispute or difference to an Adjudicator.
- 10.3 Referral of the dispute to an Adjudicator shall be made within 7 days of the issue of the notice.
- 10.4 The Parties may agree who shall act as the Adjudicator or the Adjudicator shall be a person nominated, at the request of either Party, by the nominating body specified in item K of the Contract Details.
- 10.5 The Adjudicator may allocate between the Parties the costs relating to the adjudication, including the fees and expenses of the Adjudicator.
- 10.6 The adjudication rules shall be as stated in item K of the Contract Details.
- 10.7 If the initial/preferred dispute resolution process is not successful, the dispute shall be referred to the final resolution process, as set out in item K of the Contract Details.

Arbitration

- 10.8 Where it is stated in item K of the Contract Details that arbitration applies as an alternative to litigation:

- 10.8.1 without prejudice to any right of adjudication, where in item K of the Contract Details an arbitration agreement is made and either Party requires a dispute or difference (except in connection with the enforcement of any decision of an Adjudicator) to be referred to arbitration then that Party shall serve on the other Party a notice of arbitration to that effect and the dispute or difference shall be referred to a person to be agreed between the Parties or, failing agreement within 14 days of the date on which the notice is served, a person appointed by the appointing body specified in item K of the Contract Details on the application of either Party
- 10.8.2 the Client or the Architect/Consultant may refer to litigation any claim for a financial remedy which does not exceed the financial limit provided by order made under section 91 of the Arbitration Act 1996
- 10.8.3 in such arbitration the Construction Industry Model Arbitration Rules (CIMAR) current at the date of the referral shall apply
- 10.8.4 the Arbitrator shall not have the power referred to in section 38(3) of the Arbitration Act 1996.

Litigation

- 10.9 Where it is stated in item K of the Contract Details that litigation applies, either Party may start court proceedings to settle a dispute.

11. Information Formats

- 11.1 Provided that all fees and/or other amounts properly due are paid, the Client shall have a licence to copy and use the electronic drawings and documents detailed in item L of the Contract Details only for purposes related to construction of the Project or its subsequent use or sale, and they may not be used for reproduction of the design for any part of any extension of the Project or any other project. Such licence is subject always to clause 6.3.
- 11.2 Copying or use of the electronic drawings and documents by any Other Client Appointments providing services to the Project shall be deemed to be permitted under a sub-licence granted by the Client, whether such drawings and documents were issued by the Client or on the Client's behalf.
- 11.3 The Architect/Consultant shall not be liable for any use of the electronic drawings and documents other than for the purpose for which they were prepared.
- 11.4 Without prejudice to the Architect/Consultant's obligations under the Contract, the Architect/Consultant does not warrant, expressly or impliedly, the integrity of any electronic data delivered in accordance with the provisions of item L of the Contract Details.
- 11.5 The Architect/Consultant shall have no liability to the Client in connection with any corruption or any unintended amendment, modification or alteration of the electronic drawings and documents which occurs after they have been issued by the Architect/Consultant.
- 11.6 The Architect/Consultant shall have no liability to the Client for the accuracy or otherwise of designs created by the Architect/Consultant in the event the designs are to be used by others appointed by the Client directly. Any parties appointed by the client in relation to the project are required to undertake their own survey and measurements to satisfy themselves the information they have is accurate and sufficient to undertake their services.

Schedule of Services

Stage 1 Preparation and Brief

- Visit the site and carry out an initial appraisal
- On behalf of the Client, arrange surveys or other investigations that the Architect/Consultant identifies as reasonably required - specified below :

1) ~~Measured CAD survey of existing property and demise sufficient to produce proposed designs by Architect/Consultant. Does not include topography survey or site levels.~~

- Contribute to the development of the Project Programme
- Establish the Construction Cost with the Client
- Assist the Client in developing the initial Project Brief
- Prepare and discuss feasibility studies for the Project
- Advise on the Other Client Appointments required to carry out the Project

Stage 2 Concept Design

- Prepare the concept design for discussion with the Client
- Co-ordinate the relevant information received from the Other Client Appointments with the Architect/Consultant's design
- Review and update the Project Programme
- Provide updated Construction Cost information to the Client
- Collate and agree with the Client changes to the initial Project Brief and issue the final Project Brief

- Provide architectural design information and identify the reasonably foreseeable residual health and safety risks (under the CDM Regulations 2015)
- Prepare a stage report in respect to the concept design, final Project Brief and Construction Cost for the Client's approval before progressing to the next stage

Stage 3 Developed Design

- Prepare the developed design
- Co-ordinate the relevant information received from the Other Client Appointments with the Architect/Consultant's design
- Review and update the Project Programme
- Provide updated Construction Cost information to the Client
- Provide architectural design information and identify the reasonably foreseeable residual health and safety risks (under the CDM Regulations 2015)
- Prepare a stage report in respect to the developed design and the Construction Cost for the Client's approval before progressing to the next stage
- Prepare information to support a planning application and/or listed building consent application to the appropriate planning authority
- Submit planning application and/or listed building consent application to the appropriate planning authority

Stage 4 Technical Design

- Advise the Client of the planning conditions
- Prepare the technical design in sufficient detail to enable a tender or tenders to be obtained
- Co-ordinate the relevant information received from the Other Client Appointments with the Architect/Consultant's design
- Review and update the Project Programme
- Provide updated Construction Cost information to the Client
- Prepare the architectural specification
- ~~Prepare the architectural schedule of works~~
- Identify the extent of the technical design work that is to be completed by the Contractor or the specialist sub-contractors
- Prepare and submit the Building Regulations application

- Provide architectural design information and identify the reasonably foreseeable residual health and safety risks (under the CDM Regulations 2015)
- Prepare a stage report in respect to the technical design for the Client's approval before progressing to the next stage
- Advise the Client on potential contractors to be invited to tender for the construction works
- ~~Collate the Other Client Appointments' tender information and issue the tender pack to the Client for its approval~~
- ~~Invite, appraise and report on tenders~~
- Co-ordinate the design work prepared by the Contractor and the specialist sub-contractors with the Architect/Consultant's design
- Advise the Client on the appropriate form of Building Contract, its conditions and the responsibilities of the Client, the Other Client Appointments and the Contractor
- Request that the Contractor provides evidence to the Client of any insurances required under the Building Contract
- ~~Prepare the Building Contract and arrange for it to be signed/executed~~
- Co-ordinate and submit application to the appropriate planning authority for clearance of pre-commencement planning conditions
- Provide the Contractor with the information reasonably required for construction

Other Services

Definition

The below services are included as standard within the basic fee if Architect/Consultant is being contracted to submit a planning application as Part of RIBA Plan of work Stage 3. See Schedule of Services and Section F.

1) DETAIL PLANNING SUBMISSION DOCUMENTS AS FOLLOWS ONLY:

- 1.01) Location Plan (1:1250 or 1:2500)
- 1.02) Site Plan/ Block Plan (1:500 or 1:200)
- 1.03) Existing and Proposed Floor plans (1:50 or 1:100)
- 1.04) Existing and Proposed Site Sections (1:50 or 1:100)
- 1.05) Existing and Proposed Building Elevations (1:50 or 1:100)
- 1.06) Roof Plans (1:50 or 1:100)
- 1.07) Design & Access Statement (if necessary) 1.08) Certificate of Ownership
- 1.09) Agricultural Holdings Certificate
- 1.10) Pedestrian and Vehicular Access Roads and Right of Way (1:100)
- 1.11) Identification of Waste Storage and Collection provision (1:100)
- 1.12) Materials Schedule (Identified within planning application form)
- 1.13) Vehicle Parking Areas (1:100)

included in Basic Fee time-based charge lump sum charge

Definition

The below services are included as standard within the basic fee if Architect/Consultant is being contracted to survey and measure the existing property as Part of RIBA Plan of work Stage 1. See Schedule of Services and Section F.

3) SURVEYS ONLY:

- 3.01) Existing Buildings / Measured Survey (Note: this does not include invasive or investigatory surveys for hidden services or structure eg joist/rafter span direction)
- 3.02) Existing Building services locations (ie Boiler, Distribution Board and Electric Meter, Water Intake, Gas main)

included in Basic Fee time-based charge lump sum charge

Definition

The below services are included as standard within the basic fee if Architect/Consultant is being contracted to produce technical designs and submit Building Control application as Part of RIBA Plan of work Stage 4. See Schedule of Services and Section F.

4) BUILDING CONTROL SUBMISSION DOCUMENTS ONLY:

- 4.01) Location Plan (1:1250 or 1:2500)
- 4.02) Site Plan/ Block Plan (1:500 or 1:200)
- 4.03) Existing and Proposed Floor plans (1:50 or 1:100)
- 4.04) Existing and Proposed Site Sections (1:50 or 1:100)
- 4.05) Existing and Proposed Building Elevations (1:50 or 1:100)
- 4.06) Specification/Standard Notes of Workmanship (On notes section within drawings only)
- 4.07) Door and Ironmongery Schedule (Basic, does not include item or product selection or item of product specification)

included in Basic Fee time-based charge lump sum charge

Additional Services

The following services are not included in the Contract but the Client can request that the Architect/Consultant undertakes these services, if the need arises, during the Project. These services are subject to additional fees, which are to be agreed between the Client and the Architect/Consultant.

Services may include, but are not limited to, the following:

- producing models and special drawings
- negotiating approvals with statutory authorities
- making submissions to and negotiating approvals by landlords, freeholders, etc.
- preparing a schedule of dilapidations
- services in connection with party wall negotiations
- negotiating a price with a contractor (in lieu of tendering)
- services in any dispute between the Client and another party
- services following damage by fire and other causes
- services following suspension or termination of any contract or agreement following the insolvency of any other party providing services to the Project
- services in connection with government and other grants
- specialist services in relation to historic buildings and conservation works.

- - ☒Finished Floor Levels or Site Levels
 - ☒Computer renderings of buildings
 - ☒Area summaries
 - ☒Master Plan Planning Report
 - ☒Biodiversity and Geological Conservation Report
 - ☒Land Contamination Assessment Report
 - ☒Identification of trees/tree survey that may effect development
 - ☒Specialist foundation designs (eg Pile/Raft Foundation Design)
 - ☒Completion of a tree removal application (where trees covered by preservation order or are in a conservation area) or Tree Audit - preservation order check
 - ☒Envirocheck desk top survey
 - ☒Geotechnical Investigations/soil tests including soil contamination, ground permeability and interpretation
 - ☒Environment Agency Flood Risk Check
 - ☒Pile Probing
 - ☒Topographical Survey
 - ☒Archaeological Survey
 - ☒Asbestos Report
 - ☒Site Ecological Survey (for BREEAM)
 - ☒Transport Assessment
 - ☒Traffic Survey and Impact Assessment
 - ☒LEA Land Registry - Confirmation of legal boundaries, easements and access
 - ☒Rights of Light
 - ☒Daylight Studies
 - ☒Groundwater conductivity for feasibility of heat pumps
 - ☒Drain Surveys including CCTV, capacity of local systems & buried services
 - ☒Background Noise Survey
 - ☒Vibration Survey
 - ☒Site Setting Out
 - ☒Air Quality Survey
 - ☒Electromagnetic Radiation
 - ☒Gas contamination soil survey
 - ☒Utilities to and from site - Gas Water, Electricity, Sewers & Telecoms
 - ☒Load capacity of existing services
 - ☒Review of any party wall structures including retaining walls
 - ☒Landscape/external work design
 - ☒Biodiversity and Geological Survey
 - ☒Discharge of Planning Conditions
 - ☒Underground scanning – underground structures, infrastructure and services
 - ☒Acoustic model
 - ☒SAP Test
 - ☒Lighting Model
 - ☒3D Photo Realistic Visuals (Unless confirmed in Section F)
 - ☒Water Service Build Over Agreements
 - ☒CDM Acting as Principle Designer (Unless confirmed in Schedule of Services and Section F)
 - ☒Soil Mechanics and Investigation
 - ☒Party Wall Survey and Agreement
 - ☒Public consultations such as council committee meetings
- Presentation models, Renderings, Brochures, Videos, Mood Boards, Animated Fly Throughs, CGI, Hand Drawn Artist Renderings and Perspectives, Visual Impact Assessments
- Ground Percolation survey to determine suitability for Soakaways

- **INVASIVE SURVEYS** for example within walls, floors or roof structures. Lifting of hard or soft floor finishes for further inspection/investigation. **NOTE:** The contractor is responsible for any invasive investigation/surveys in order to satisfy themselves that the Architect/Consultant designs can be built for the construction cost. Any issues/errors/inaccuracies within the designs or documents provided by the Architect/Consultant that would have been foreseeable at the quotation stage by the contractor either through invasive investigation or not must be identified by the contractor and brought to the attention of the Architect/Consultant prior to contractor appointment. Any necessary adjustment to the construction cost due to the lack of an invasive survey or errors/inaccuracies in project documentation provided by the Architect/Consultant not highlighted at contractor quotation stage by the client or contractor will not be the responsibility of the Architect/Consultant. The Architect/Consultant will not be responsible for any adjustment in construction cost resulting from the contractor not undertaking suitable and thorough investigations whether invasive surveys, structural investigations or otherwise. The contractor is to inform the Architect/Consultant in writing of any issues/errors/inaccuracies prior to submitting the quotation for the works. Where the client selects their own builder it is the clients responsibility to ensure the contractor complies with the above. The contractor is to undertake investigatory/exploratory works to satisfy himself that all structural requirements have been included in the designs and that he has priced for all necessary structural works whether included in the designs or not. The Architect/Consultant will not be held responsible for any additional works required over and above the tender designs. It is the contractors responsibility to ensure all necessary structural works has been included in his quotation. Any invasive site survey work required to be undertaken by the Architect/Consultant will be re-charged on a time charge basis as set out in Section G in addition to the basic fee.
- **EXISTING SERVICES ASSESSMENT.** **NOTE:** It is the contractors/specialist consultant responsibility to check the capacity of the existing heating, cold and hot water storage systems and allow in his quotation for any upgrade works required. The Architect/Consultant will be held responsible for any additional costs resulting from upgrade or renewal works deemed necessary.
- **HEATING, HOT/COLD WATER, DRAINAGE DESIGN.** **NOTE:** It is the responsibility of the contractor (or M&E Consultant if appointed) to design the heating, hot/cold water and drainage systems in accordance with notes relating to hot water and heating systems contained within the construction designs and current building regulations. Any designs relating to heating, hot/cold water and drainage provided by the Architect/Consultant are indicative and subject to site survey by the contractor or his HVAC subcontractor. All works are to be carried out by an approved Gas Safe contractor with all relevant gas safe certification to be provided on completion. For tendering purposes the contractor is deemed to have priced the complete heating, hot/cold water and drainage systems in accordance with the construction designs and to meet current building regulations.
- **SPECIALIST PLANNING ADVICE/PLANNING REJECTION APPEALS:** On occasion such services are necessary to help improve chances of planning approval. Such services will be undertaken by a specialist planning consultant whereby additional fees will apply which will be advised to the client in advance. The Architect/Consultant may also have additional fees involved which will be quoted on a time charge basis (Section G) in addition to the planning consultant fees.
- **LISTED BUILDING CONSENT:** If the building is 'Listed', then an application for Listed Building Consent must be made to the Secretary of State, via the Local Authority. This process can take up to three months. Any associated local authority application fees would be charged in addition to the basic fee
- **CONSERVATION AREA CONSENT:** If the building is in a conservation area, then a separate application for Conservation Area Consent must be made to the Secretary Of State, via the Local Authority. This process can take up to three months. Any associated local authority application fees would be charged in addition to the basic fee.
- **SPECIALIST DESIGNS:** Such as Balcony Fixing Details, Joinery/Staircase/Kitchen/Fixtures and Fitting Design
- **INTERIOR DESIGN**

Contract Checklist

ONCE THE CONTRACT DETAILS HAVE BEEN COMPLETED, AND BEFORE THE AGREEMENT IS SIGNED, CHECK THIS LIST TO ENSURE THAT ALL OF THE KEY TERMS HAVE BEEN CONSIDERED.

YES

Has the Project Brief and Client's statement of requirements been agreed?

Has the target Construction Cost been agreed/advised?

Has the target Project Programme been agreed?

Have any Other Client Appointments been agreed?

Have the fees and expenses and payment frequency been agreed?

Has the amount of professional indemnity insurance that is to be allowed for the Project been agreed and has this been arranged?

Has a dispute resolution process been agreed in case something goes wrong?

Has the Schedule of Services been agreed?

Has the Client been made aware that it has duties under the CDM Regulations 2015?

Have all the Contract Details been completed?

