



TERMS of BUSINESS

Our fees are as stated in our fee proposal letter or such later correspondence confirming our appointment and are due for payment within 14 days of the invoice date.

Should additional works be instructed these will be charges at an hourly rate where the following rates are applicable:

Principal @ £130/hour

Senior Assistant @ £75/hour

Junior Assistant @ £35.00/hour

Invoices may be submitted at our discretion proportionate to the work executed but no more frequently than one invoice per month.

We reserve the right to charge interest on amounts unpaid, calculated on a daily basis, from the 29th day following the date of invoice at the rate of 8% above HSBC Midland Bank's base rate.

The final date for payment of any sum due including any interest added shall be 56 days after the invoice date.

If a party to this contract disagrees with an invoiced amount that party may give notice to us not later than 5 days after the date payment became due specifying the amount (if any) of the payment made or proposed to be made, the amount to be withheld and the basis on which those amounts were calculated.

Payment may not be withheld after the final date for payment unless an effective notice to withhold payment has been given.

In the event of postponement or termination, for whatever cause, we reserve the right to charge for work carried out in accordance with the fee basis agreed for the appointment.

Should any invoice not be paid by the final date for payment in accordance with the terms of our appointment and no effective notice has been given we reserve the right to suspend work until payment is made and we shall not be responsible for any additional costs incurred by the Client as a result thereof.

Where there are disputed fee invoice(s) this shall not entitle the Client to withhold the payment of undisputed fee invoices or parts thereof.

In the event of a dispute under or in connection with this contract any party to the contract has the right at any time to refer the dispute to adjudication.

The procedure to be adopted for such adjudication shall be as set down in the Model Adjudication Procedure (MAP) last published by the Construction Industry Council.

The referring party shall request the President or Vice President of the Royal Institution of Chartered Surveyors or the Chartered Institute of Arbitrators to nominate an adjudicator in accordance with the MAP.

Copyright in the intellectual material (drawings and written documentation) produced by LM Associates remains the property of LM Associates and license to in anyway use, copy, reproduce, alter or pass to a third party in such material, is not deemed to have been granted by virtue of such information having been issued under the appointment unless all contracted fees have been paid in full.

Our appointment will be in accordance with the terms and conditions set out in the Publication Domestic Standard Professional Services 2020 – Architectural Services, published by the Royal Institute of British Architects, a copy of which can be viewed at LMA's office during normal office hours or on our website.

The terms and conditions of our appointment may only be varied if accepted in writing by a Director of LM Associates.

Domestic
Professional Services
Contract 2020

Architectural Services



Contract Conditions

Definition of Terms

Architect⁴/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 and Safety Executive, which govern the management of health, safety and welfare for construction projects.

Client: the person 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's 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 orally 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 and is not affected by any liquidated damages deducted by the Client.

Construction Phase: the period of time beginning when construction work on a Project starts and ending when construction work on that Project is completed.

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, alterations, refurbishment and demolition, to be carried out safely.

⁴ '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).

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

Other Client Appointments: other consultant 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 certified as having achieved 'Practical Completion' under the terms of the Building Contract.

Pre-construction Information: information in the Client's possession or which is reasonably obtainable by or on behalf of the Client, which is relevant to the construction work and is of an appropriate level of detail and proportionate to the risks involved.

Pre-construction Phase: any period of time during which design or preparatory work is carried out for a project, which may continue during the Construction Phase.

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

Principal Designer: a designer appointed by the Client as Principal Designer under the CDM Regulations 2015. This shall be the Architect/Consultant, if so selected in the Schedule of Services.

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.

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 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 agreed in writing by duly authorised representatives of both the Client and the Architect/Consultant.
- 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, Construction Cost, the Project Programme and the Services required and, as soon as reasonably practicable, of any subsequent changes required, and agree steps to mitigate the consequences of such changes
 - 2.1.2** provide, free of charge, information in the Client's possession, or which is reasonably obtainable, and which the Architect/Consultant reasonably advises 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 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.
- 2.2 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 factors 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.
- 2.4 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 coordinate 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 an 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 Subject to clause 3.4, the Architect/Consultant shall have the right to publish photographs and other information relating to the Project, and the Client shall give reasonable access to the Project for this purpose for 2 years after Practical Completion.
- 3.4 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, Subcontracting, Novation and Third Party Rights

- 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 subcontract performance of any part of the Services without the prior consent of the Client, and such consent shall not be unreasonably withheld or delayed. Any such subcontracting shall not relieve the Architect/Consultant of responsibility for carrying out and completing the Services in accordance with the Contract. Such consent shall not be required for agency or self-employed staff.
- 4.3 The Parties may, by agreement, novate the Contract on terms to be agreed.
- 4.4 There is no intention to grant rights to third parties pursuant to the Contracts (Rights of Third Parties) Act 1999, other than to lawful assignees.

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 work 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
 - 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 the Architect/Consultant for any reduction of the Construction Cost arising solely from deflationary market conditions not prevailing at the date of the Contract
 - 5.4.3** if the Client instructs a reduction in the Project Brief during the performance of the Services, or there is a reduction in the Construction Cost due to deflationary market conditions, the figure to which the percentage Basic Fee shall be applied, up to the date of the instruction or reduction, shall be the current professionally prepared estimate of the Construction Cost or the lowest acceptable tender (whichever is later) immediately prior to the instruction or reduction.
- 5.5** Subject to clause 5.6, 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 unless otherwise agreed. Matters in relation to which the Architect/Consultant shall be entitled to additional fees include, but are not limited to, 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.

- 5.6** 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:
- 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 has issued 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, whichever is the later.
- 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.
- 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. Any entitlement to interest at the specified rate shall also apply to any amounts that are awarded in adjudication, arbitration or legal proceedings.
- 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 Subject to clause 6.3, 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 To the extent that fees and other amounts properly due are paid, the Client shall have a licence to copy and use all drawings and documents provided by the Architect/Consultant in either paper or digital formats only for purposes related to construction of the Project or its subsequent use or sale. They may not be used for reproduction of the design for any part of any extension of the Project or any other project.
- 6.4 Copying or use of the drawings and documents which have been provided in either paper or digital formats by any Other Client Appointment 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.
- 6.5 The Architect/Consultant shall be liable to the Client in respect of any reasonably foreseeable and fully mitigated expenses, losses or damages directly 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.
- 6.6 The Architect/Consultant shall not be liable for any use of the drawings and documents which have been provided in either paper or digital formats other than for the purpose for which they were prepared and provided by the Architect/Consultant.
- 6.7 If at any time the Client is in default of payment of any fees or other amounts properly due, the Architect/Consultant may suspend further use of the licence and any sub-licences for the drawings and documents to which the unpaid monies relate on giving 7 days' notice of the intention to do so. Use of the licence may be resumed on receipt of such outstanding amounts.
- 6.8 The licence shall stay in force, notwithstanding the expiry or termination of the Contract, unless it is suspended at the date of such expiry or termination.
- 6.9 The Basic Fee for the performance of the Services shall include all royalties, licence fees or similar expenses for the making, use or exercise by the Architect/Consultant of any invention or design patents, etc. for the purpose of performing the Services.

7. Architect/Consultant's Liability

- 7.1 Actions 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 not 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 person 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, when reasonably requested by the Client, shall produce for inspection a broker's letter or certificate confirming that such insurance has been obtained and is being maintained.
- 8.2 The Architect/Consultant shall inform the Client as soon as practicable upon becoming aware that 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.

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 the Client is in material or persistent breach of its obligations under the Contract
 - 9.2.3 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 arises from a default:
- 9.4.1** which is remedied within the notice period, 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 within the notice period by the defaulting Party, the Contract may be terminated 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** The direct or indirect effect of any period of suspension arising from a valid notice given under clause 9.1 or clause 9.2 shall be taken into account for the purposes of assessing compliance by the Architect/Consultant with the Project Programme.
- 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 (as defined in the Housing Grants, Construction and Regeneration Act 1996), 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** In the event of any dispute or difference arising under the Contract, 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** Where it is stated in item K of the Contract Details that adjudication applies:
- 10.2.1** either Party may give notice at any time of its intention to refer a dispute or difference to an Adjudicator
 - 10.2.2** the appointment of the Adjudicator shall be made in accordance with the procedure identified in item K of the Contract Details
 - 10.2.3** the referral of the dispute to an Adjudicator shall be made within 7 days of the issue of the notice
 - 10.2.4** if the Parties cannot reach agreement on a person to act as Adjudicator, either Party may apply for a nomination or appointment to be made by the Royal Institute of British Architects.
- 10.3** The dispute may be referred by either Party to the final resolution process, as set out in item K of the Contract Details.

Arbitration

- 10.4** Where it is stated in item K of the Contract Details that arbitration applies as an alternative to litigation:
- 10.4.1** if 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. If the Parties cannot reach agreement on a person to act as Arbitrator within 14 days of the date on which the notice is served, either Party may apply for a nomination or appointment to be made by the Royal Institute of British Architects
 - 10.4.2** 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
 - 10.4.3** in such arbitration the Construction Industry Model Arbitration Rules (CIMAR) current at the date of the referral shall apply
 - 10.4.4** the Arbitrator shall not have the power referred to in section 38(3) of the Arbitration Act 1996.

Litigation

- 10.5** 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** 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.
- 11.2** 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.
- 11.3** The Architect/Consultant shall have no liability to the Client in connection with any corruption or any unintended amendment, modification or alteration of the drawings and documents in digital format which occurs after they have been issued by the Architect/Consultant.

12. Client's Right to Cancel

- 12.1** The Client has the right to cancel the Contract, for any reason, by sending a notice of cancellation to the Architect/Consultant at any time within 14 days of signing the Agreement.
- 12.2** The notice of cancellation is deemed to be served as soon as it is posted to the Architect/Consultant or, in the case of an electronic communication, on the day that it is sent to the Architect/Consultant.
- 12.3** If the Architect/Consultant was instructed to perform any services before the Contract was made or before the end of the 14-day period and the instruction(s) were confirmed in writing, the Architect/Consultant shall be entitled to any fees and expenses properly due before the Architect/Consultant received the notice of cancellation.

Schedule of Services

The specific services that the Architect/Consultant will carry out at each stage of the Project are listed below. The Services will be undertaken in accordance with the stages defined in the RIBA Plan of Work.

The Services being undertaken should be selected individually and ticked ☒ where an option APPLIES, provided that clause 3.1 and clause 3.2 of the Contract Conditions shall always apply.

Stage 0 – Strategic Definition

It is anticipated that services required as part of any Stage 0 – Strategic Definition activities will be commissioned on a time-based charge or as a separate professional services contract. However, any minor roles and services may be added if required.

☐

Provide feedback from previous projects

☐

Review relevant information from the Client to confirm the Client's strategic brief

☐

Other (please specify)

Continue on a separate sheet if necessary.

Stage 1 – Preparation and Briefing

☐

Visit the site and carry out an initial appraisal

☐

On behalf of the Client, arrange the following surveys or other investigations that the Architect/Consultant identifies as reasonably required:

☐

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
- ☐ Provide a report on the feasibility of the Project for the Client's approval before progressing to the next stage
- ☐ Other (*please specify*)

Continue on a separate sheet if necessary.

Stage 2 – Concept Design

- ☐ Prepare the concept design for discussion with the Client
- ☐ Coordinate 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 on the concept design, final Project Brief and Construction Cost for the Client's approval before progressing to the next stage
- ☐ Other (*please specify*)

Continue on a separate sheet if necessary.

Stage 3 – Spatial Coordination

- ☐ Prepare the design in sufficient detail to enable spatial coordination
- ☐ Coordinate 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 on the spatially coordinated 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 a planning application and/or listed building consent application to the appropriate planning authority
- Other (*please specify*)

Continue on a separate sheet if necessary.

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
- Coordinate 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/schedule of works* (**delete as appropriate*)
- Identify the extent of the technical design work that is to be completed by the Contractor or the specialist subcontractors
- 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)
- 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
- Coordinate the design work prepared by the Contractor and the specialist subcontractors 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

Coordinate and submit an application to the appropriate planning authority for clearance of pre-commencement planning conditions

Provide the Contractor with the information reasonably required for construction

Prepare a stage report on the technical design for the Client's approval before progressing to the next stage

Other (*please specify*)

Continue on a separate sheet if necessary.

Stage 5 – Manufacturing and Construction

Provide architectural information to the Other Client Appointments, as reasonably required, to enable them to carry out their services

Respond within a reasonable timeframe to site queries

Provide architectural final construction issue information for inclusion in the Health and Safety File (under the CDM Regulations 2015)

Provide the Client with the original copy of any notices, consents or approvals in connection with planning, building control and other relevant statutory approvals

Maintain contract administration procedures, hierarchy of responsibility and lines of communication for the exchange of information between the Client, the Other Client Appointments and the Contractor in accordance with the Building Contract

Organise, chair and record meetings, at the frequency stated in item F of the Contract Details, identify the activities to be undertaken and determine who is responsible for taking action and report on progress to the Client

Carry out visual site inspections, as stated in item F of the Contract Details, to inspect the construction works with respect to general compliance with the Building Contract and Project Programme

Certify interim payments in accordance with the terms of the Building Contract and advise on the final Construction Cost

Review the progress of the construction works against the Project Programme

Advise the Client regarding the effect that any variation or change proposed by the Client or Contractor will have on the Construction Cost and Project Programme

Prepare and submit the application to discharge the construction-stage and the pre-occupancy planning conditions

- ☐ Issue instructions in accordance with the terms of the Building Contract
- ☐ Request manufacturers' maintenance instructions or leaflets from the Contractor and provide them to the Client
- ☐ Certify Practical Completion when this has been achieved
- ☐ Other *(please specify)*

Continue on a separate sheet if necessary.

Stage 6 – Handover

- ☐ Carry out visual site inspections, as stated in item F of the Contract Details, and comment on the resolution of defects and issue site inspection reports to the Client
- ☐ Issue a schedule of defective works
- ☐ Liaise with the Client, the Other Client Appointments and the Contractor in relation to the making good of defects
- ☐ Inspect the remedial works following receipt of notice from the Contractor that the resolution of defective works is complete
- ☐ Certify when the defective works have been rectified
- ☐ Assist the Client and the Contractor to agree the final account and issue the final certificate
- ☐ Other *(please specify)*

Continue on a separate sheet if necessary.

Stage 7 – Use

Services required as part of any ongoing (long-term) Stage 7 – Use activities are not listed. It is anticipated that such services will be commissioned as a separate professional services or operating contract.

Other Services

List any other services that the Architect/Consultant is going to undertake and state whether these are included in the Basic Fee (item F of the Contract Details), whether they will be carried out on a time-based charge, as per item G of the Contract Details, or whether they will be undertaken for a lump sum charge (state the charge in the 'Other services' section of item F of the Contract Details).

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 with 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.

Principal Designer Schedule of Services

The Services cover the range of services expected of a Principal Designer based on the CDM Regulations 2015 which the Architect/Consultant is authorised to perform and shall be responsible for.

Select if the Architect/Consultant will be appointed as the Principal Designer and indicate the stages for which the role will apply.

Principal Designer

Stages that apply

The Architect/Consultant as Principal Designer will, so far as is reasonably practicable, and provided that clause 3.1 and clause 3.2 of the Contract Conditions shall always apply, deliver the following services:

- Plan, manage and monitor the Pre-construction Phase and coordinate matters relating to health and safety during the Pre-construction Phase to ensure that the Project is carried out without unreasonable risks to health or safety
- Take into account the general principles of prevention and, where relevant, the content of any Construction Phase plan and Health and Safety File when:
 - design, technical and organisational aspects are being decided in order to plan the various items or stages of work which are to take place simultaneously or in succession
 - reviewing estimates of the period of time required to complete such work or work stages
- Identify and eliminate or control foreseeable risks to the health or safety of any person:
 - carrying out or liable to be affected by construction work
 - maintaining or cleaning a structure
 - using a structure designed as a workplace
- Ensure all Other Client Appointments comply with their duties under the CDM Regulations 2015
- Ensure that all persons working in relation to the Pre-construction Phase cooperate with the Client, the Principal Designer and each other, regarding health or safety
- Assist the Client in the provision of the Pre-construction Information, promptly and in a convenient form, to every designer and contractor appointed, or being considered for appointment, to the Project, so far as it is within the Principal Designer's control
- Liaise with the Principal Contractor for the duration of the Principal Designer's appointment and share with the Principal Contractor information relevant to the planning, management and monitoring of the Construction Phase and the coordination of health and safety matters during the Construction Phase
- Assist the Principal Contractor in preparing the Construction Phase plan by providing to the Principal Contractor all information the Principal Designer holds that is relevant to the Construction Phase plan including:
 - Pre-construction Information obtained from the client
 - any information obtained from designers that is provided to the Principal Designer about health and safety risks
- Prepare a Health and Safety File appropriate to the characteristics of the Project, which must contain information relating to the Project that is likely to be needed during any subsequent project to ensure the health and safety of any person
- Ensure that the Health and Safety File is appropriately reviewed, updated and revised from time to time to take account of the work and any changes that have occurred
- Pass the Health and Safety File to the Client at the end of the Project or pass the Health and Safety File to the Principal Contractor if the Principal Designer's appointment ends before the end of the Project
- Other (please specify)

Appendix

Notice of Cancellation

The Client has the right to cancel the Contract, for any reason, by sending (including by email) a notice of cancellation to the Architect/Consultant within 14 days of signing the Agreement.

The notice of cancellation may be worded as follows:

Dear *[Architect/Consultant's name or name of business]*

Notice of Cancellation

The Client *[Client's name]* hereby gives notice that the RIBA Domestic Professional Services Contract 2020 entered into with the Architect/Consultant *[Architect/Consultant's name or name of business]* on *[date stated at end of the Agreement section]* is cancelled.

Yours sincerely,

[Client's signature]

[Date]

Note: The Client may cancel the Contract within 14 days of signing it and the Architect/Consultant shall refund any payments received from the Client. However, if within 14 days of signing the Contract, the Client agrees in writing that the Architect/Consultant shall undertake any work and/or provide services and/or goods, the Client shall be liable to pay for the work, services and/or goods.

FOR CONSULTATION PURPOSES ONLY

FOR CONSULTATION PURPOSES ONLY

