

TERMS AND CONDITIONS

Interpretation

In this contract, unless the context otherwise requires:

- The word “include” and any derivations of it shall be construed without limitation;
- The singular shall include the plural and vice versa
- A gender shall include any other gender; and
- References to any statute or statutory instrument includes any statute or statutory instrument amending, consolidating or replacing it, and references to a statute includes statutory instruments and regulations made pursuant to it.

Conditions

Approved Inspector’s general obligations

The Approved Inspector shall carry out the Services and any Additional Work with reasonable skill, care and diligence in accordance with this contract. The Approved Inspector shall have due regard to the CIC code of Conduct for Approved Inspectors and where possible to any programme for the Project (as amended from time to time).

Client’s information and obligations

The Client shall provide such information and assistance as the Approved Inspector reasonably requires from time to time in order to facilitate the timely provision of the Services and any Additional Work.

The Client shall be responsible for safe access to the Project being provided when the Approved Inspector reasonably requires it.

Design, permits and approvals

Except where permitted by law and to the extent set out in “services”, the Client shall be entirely responsible for the design, construction and management of the Project and any Additional Work.

The Client shall also be entirely responsible for obtaining and implementing all necessary permits, licences and approvals, except those which form part of the Services or Any Additional Work.

Compliance with Building Regulations

The Client shall be responsible for the Project’s compliance with the Building Regulations and the Services do not include advising the client or managing the Project to ensure that compliance is achieved.

The Approved Inspector shall take such steps as are reasonable to enable it to be satisfied as to the Project’s compliance with the Building Regulations, and if so satisfied, it shall issue a Final Certificate. The Final Certificate is not a representation that every aspect of the Project complies with the Building Regulations.

Insurance

The Approved Inspector shall maintain professional indemnity insurance and public liability insurance in compliance with the guidelines issued by the Department for Communities and Local Government (or any successor Department responsible for the Building Act 1984). On the Client’s written request, the Approved Inspector shall provide evidence that these insurances are being properly maintained.

Assignment and subcontracting

Either party may assign its rights and benefits under this contract. The Approved Inspector may subcontract any part of the services and any Additional Work, with the prior approval of the Client, not to be unreasonably withheld or delayed.

Termination and discharge

The Client may terminate this contract forthwith if:

The Approved Inspector is in material breach of its obligations under this contract and has failed to remedy the breach within 28 days of the date of a notice of the breach from the client; or

The Approved Inspector becomes insolvent.

The Approved Inspector may terminate this contract forthwith if:

The Client is in material breach of its obligations under this contract and has failed to remedy the breach within 28 days of the date of a notice of the breach from the Approved Inspector;

The Approved Inspector reasonably believes that it will not be in a position to issue a final certificate on completion; or

The Client becomes insolvent.

Following termination by the Approved Inspector or the Client, the Approved Inspector is entitled to write to the Local Authority (with a copy to the Client) cancelling the initial notice under the Building Regulations, in which case the Approved Inspector functions will revert to the Local Authority and the Approved Inspector will be discharged from all requirements to complete the Services or any Additional Work.

The right of either party to terminate for material breach of this contract shall lapse if it has not been exercised within 35 days after giving notice of the breach to the other party.

Consequences of termination

If this contract has been terminated, the Client shall pay the Approved Inspector any instalments of the Fee due up to the date of termination together with a fair and reasonable proportion of the next instalment of the fee commensurate with the Services and any Additional Work performed by the Approved Inspector prior to the notice of termination.

Termination of this contract shall not affect any rights or remedies of the Client or the Approved Inspector which exist at the date of termination.

Limitations of liability

Nothing in this clause shall limit the Approved Inspector's liability for negligence resulting in death or personal injury. Subject to that:

Notwithstanding any other provisions in this contract (apart from the clause above), the Approved Inspector's total liability to the Client for any claims arising under or in connection with this contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise) shall be limited to 100 times our Total fee excluding VAT.

Without prejudice to any other exclusion or limitation of liability, damages, loss, expense or costs, the liability of the Approved Inspector for any loss or damage ('the loss or damage') under this contract shall be limited to that proportion as it would be just and equitable for the Approved Inspector to pay having regard to the extent of its responsibility for the loss or damage and on the assumptions that:

- All other consultants, contractors, subcontractors, and advisers engaged in connection with the Project have provided contractual undertakings on terms no less onerous than those above to the Client in respect of the carrying out of their obligations in connection with the project.
- There are no exclusions of or limitations of liability nor joint insurance or co-insurance provisions between the Client and any other party referred to in this clause and any such other party who is responsible to any extent for the loss or damage is contractually liable to the Client in respect of the carrying out of their obligations in connection with the Project.
- All the parties referred to in this clause have paid to the Client such proportion of the loss or damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss or damage.

The Approved Inspector shall not be responsible for the supervision of any contractor or subcontractor, nor shall the Approved Inspector have any liability for ensuring the performance or adequate standard of workmanship of any contractor or subcontractor.

The Client shall look only to the Approved Inspector (and not to individuals engaged by the Approved Inspector or any individual directors or members of the Approved Inspector) for redress if the Client considers that there has been any breach of this contract. The Client agrees not to pursue any claims in contract, in tort (including negligence), for breach of statutory duty or otherwise against any such individuals as a result of carrying out its obligations under or in connection with this contract at any time. The Client acknowledges that such individuals are entitled to enforce this term of the contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

Notices

The Client and the Approved Inspector can give notice to each other in writing under this contract by personal delivery. They can also give notice by Recorded Delivery or Special Delivery, in which case delivery is effective two working days after posting. Notices must be sent to the Client address or any other address notified.

Disputes and complaints

If the Client is not satisfied with the Approved Inspector's performance of the Services or any Additional Work, it may ask the Approved Inspector to implement the Approved Inspector's complaints handling procedure. The Approved Inspector shall provide a copy of the procedure on request. The operation of the Approved Inspector's complaints handling procedure does not affect the Client's right to refer a dispute to the courts.

Definitions

In this contract, unless the context otherwise requires, the following expressions have the following meanings:

Additional work	means the type or volume of services appropriate for an Approved Inspector to carry out in relation to the Project as a result of or in consequence of any change in design, size/scope of the project or timing of the project, together with any other services instructed by the client and agreed by the Approved Inspector.
Approved Inspector	means a licensed individual or organisation carrying out the duties given to an approved inspector by the Building Act 1984 and regulations made under it
CIC	means the Construction Industry Council
FEE	means the total amount to be paid to the Approved Inspector for the services and any Additional work
SERVICES	means the services listed over
STATUTORY FUNCTIONS	means the duties of an inspector under the Building Act 1984, regulations made under it and formal guidelines issued by a government department