

RIBA 

**Domestic**  
Professional Services  
Contract 2018

Architectural Services



Royal Institute of British Architects

# Guidance Notes

FOR CONSULTATION PURPOSES ONLY

# Guidance Notes

These guidance notes explain the provisions of the RIBA Domestic 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 Domestic 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.

## When to Use this Contract

- The RIBA Domestic Professional Services Contract is suitable for commissions for simple domestic projects of any value, in which the building works will be carried out using forms of building contract, such as the *RIBA Domestic Building Contract*.
- The RIBA Domestic 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 Domestic Professional Services Contract is devised as an agreement between an Architect/Consultant and a consumer Client relating to work to the Client's own home, including renovations, extensions, maintenance and new buildings, provided that the Client has elected to use these Conditions in their own name, i.e. not as a limited company or other legal entity or where the property will be let.
- Under the CDM Regulations 2015, on projects with more than one contractor, a Principal Designer must be appointed to plan, manage, monitor and co-ordinate health and safety in the Pre-construction Phase of a project. This Contract has the option for the Architect/Consultant to be appointed as the Principal Designer. The RIBA recommends the default choice for the Principal Designer should be the Architect/Consultant

on projects for domestic clients. On domestic projects (projects for a consumer client), if the Client does not appoint a Principal Designer, the designer in control of the Pre-construction Phase of the project is deemed to be the Principal Designer.

- The Architect/Consultant must not commence work in relation to a project unless it is satisfied that the Client is aware of its duties under the CDM Regulations 2015. On domestic projects, for single-contractor projects, the Client's duties are normally transferred to the Contractor. For projects involving more than one contractor, the duties are transferred to the Principal Contractor. If a Client has appointed an Architect/Consultant, or other designer, as Principal Designer, they can ask them to manage the Project and take on the Client duties instead of the Principal Contractor.
- The contract terms should be compatible with the complexity of the Project and the risks to each Party and with the terms of the Agreement.
- The RIBA Domestic Professional Services Contract is not suitable for works where the property is to be let or for commercial or residential work undertaken for business clients, including charities, religious organisations, not-for-profit bodies, or where the Client is a public authority. The RIBA recommends the use of the RIBA Standard or Concise Professional Services Contract for commercial projects.

## Consumer Rights

- The Client is a 'consumer' as defined under the Consumer Rights Act 2015. The Architect/Consultant should read through the terms of the Contract with the Client and explain each term in the context of the Client's rights as a consumer.
- A contract with a consumer Client is subject to the Consumer Rights Act 2015 (which replaced the Unfair Terms in Consumer Contracts Regulations 1999). The Act requires that all contracts for services must provide for the following:
  - the trader must perform the service with reasonable care and skill
  - information which is said or written is binding where the consumer relies on it
  - where the price is not agreed beforehand, the service must be provided for a reasonable price
  - the service must be carried out within a reasonable time.
- While the RIBA Domestic Professional Services Contract is designed as an entity and provides remedies for the Client in the event of default by the Architect/Consultant, e.g. the requirement to maintain professional indemnity insurance and the options for dispute resolution, some of the terms may need careful explanation:
  - payment and Payment Notices (*see clauses 5.10 to 5.24*)
  - the limitation of liability (*see clauses 7.1 to 7.3*)
  - professional indemnity insurance (*see clause 8.1*)
  - dispute resolution (*see clause 10*).
- If the Client comprises a married couple or joint residential occupiers, all the Client parties are consumers, but the Client should identify one of their number as their representative with full authority to act on behalf of the Parties.
- For work to the Client's home or to a second home, the Client will be exempt from any statutory duties arising under:
  - the Housing Grants, Construction and Regeneration Act 1996 as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009, as a 'residential occupier'

- the Late Payment of Commercial Debts (Interest) Regulations 2002.

However, if the Client's second home is to be let at any time as a holiday rental or to other tenants, the Client will be deemed to be a business Client and the exemptions will not apply, thus this Contract is unsuitable and the RIBA Concise Professional Services Contract would be the appropriate choice.

## 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.
- If the Client comprises more than one person, all should sign the Contract, but they should identify one of their number as their representative with full authority to act on their behalf.
- 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.
- Because the RIBA Domestic Professional Services Contract is a consumer contract, the Client has the statutory right to cancel the Contract within 14 days of signing it and the Architect/Consultant shall refund any money received from the Client, apart from that received for any work, services or goods that the Client has agreed to pay for. To cancel the Contract, the Client must send the Architect/Consultant a written notice of cancellation (see clause 12). A template notice of cancellation is provided in the Appendix.

## 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 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 appointed 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]*.

- **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 Consumer Rights Act 2015.
- **Item K – Dispute Resolution:** In a contract with a consumer Client, the Client has the right to refer any dispute to the courts but may wish to attempt to settle the matter by alternative means, such as negotiation or mediation. The court may look favourably on any demonstration that the Parties have attempted an alternative dispute resolution method prior to any legal proceedings. The use of any processes, other than legal proceedings, must be negotiated by the Parties, but only the Client can make the decision to use arbitration. 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, 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 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).
- If the Architect/Consultant is to undertake the role of the Principal Designer as set out in the CDM Regulations 2015, the Architect/Consultant acting as Principal Designer must:
  - plan, manage, monitor and co-ordinate health and safety in the Pre-construction Phase. In doing so they must take account of relevant information (such as an existing Health and Safety File) that might affect design work carried out both before and after the Construction Phase has started
  - help and advise the Client in bringing together Pre-construction Information, and provide the information that designers and contractors need to carry out their duties
  - work with any other designers on the Project to eliminate foreseeable health and safety risks to anyone affected by the work and, where that is not possible, take steps to reduce or control those risks
  - ensure that everyone involved in the Pre-construction Phase communicates and co-operates, co-ordinating their work wherever required
  - liaise with the Principal Contractor, keeping them informed of any risks that need to be controlled during the Construction Phase.
- 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.

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The RIBA Domestic Professional Services Contract 2018: Architectural Services is endorsed by the following organisations:



**RIAS**

Royal Incorporation of  
Architects in Scotland

**RSAA**

Royal Society of Architects  
in Wales



Royal Society of  
Ulster Architects



Chartered Institute of  
Architectural Technologists



HomeOwners Alliance

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- ✗ In any other case, you may not distribute or reproduce the whole or any part of this document in any work, whether in hard copy, electronic or any other form, without the prior written consent of the RIBA.

**Domestic**

Professional Services

Contract 2018

Architectural Services



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# 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?	<input type="checkbox"/>
Has the target Construction Cost been agreed/advised?	<input type="checkbox"/>
Has the target Project Programme been agreed?	<input type="checkbox"/>
Have any Other Client Appointments been agreed?	<input type="checkbox"/>
Have the fees and expenses and payment frequency been agreed?	<input type="checkbox"/>
Has the Architect/Consultant confirmed that they have professional indemnity insurance to cover the Project?	<input type="checkbox"/>
Has a dispute resolution process been agreed in case something goes wrong?	<input type="checkbox"/>
Has the Schedule of Services been agreed?	<input type="checkbox"/>
Have the terms of the Contract been explained in the context of the Clients rights as a consumer? e.g. – payment and Payment Notices (see clauses 5.10 to 5.24) – the limitation of liability (see clauses 7.1 to 7.3) – professional indemnity insurance (see clause 8.1)	<input type="checkbox"/>
Has the Client been made aware that it has duties under the CDM Regulations 2015?	<input type="checkbox"/>
Has the appointment of the Principal Designer been agreed in the Schedule of Services?	<input type="checkbox"/>
Have all the Contract Details been completed?	<input type="checkbox"/>



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# Agreement

**This Agreement is between:**

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

AND

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

**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 (including the duties of Principal Designer, as set out in the CDM Regulations 2015).
- 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 Domestic Professional Services Contract 2018 for Architectural Services.
- The terms of this Agreement have been explained in the context of the Client's rights as a consumer.

**Signed/Executed as a:** simple contract deed



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

Name:

Signature:

*Client's signature witnessed by:*

Name:

Address:

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Signature:

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

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

Name:

Signature:

*Architect/Consultant's signature witnessed by:*

Name:

Address:

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Signature:

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**OR**

Architect/Consultant **is** a registered company

Company registration  
number:

VAT registration  
number:

First signatory (Director/Company Secretary):

Name:

Signature:

*Architect/Consultant's signature witnessed by:*

Name:

Address:

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Signature:

Second signatory (Director/Company Secretary) – *optional*:

Name:

Signature:

**This Agreement is dated and delivered on:**

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# Contract Details

## A. The Client

Name:

Address:

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Telephone number:

Email address:

Named representative (insert the name of a representative with authority to act on behalf of the Client for all purposes under the Contract)

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**D. Project Brief**

Project description and Client's statement of requirements:

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Additional briefing documents provided (include reference numbers and dates)

Document	Reference number	Date

Continue on a separate sheet if necessary.

**Construction Cost**

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

£

**Project Programme**

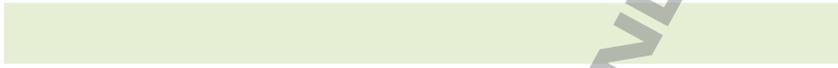
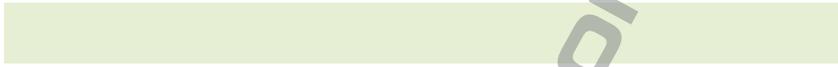
Insert key dates – e.g. submission of planning application, commencement/completion of building works, as appropriate:

Item	Target date

Continue on a separate sheet if necessary.

**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: Role: Role: Role: 

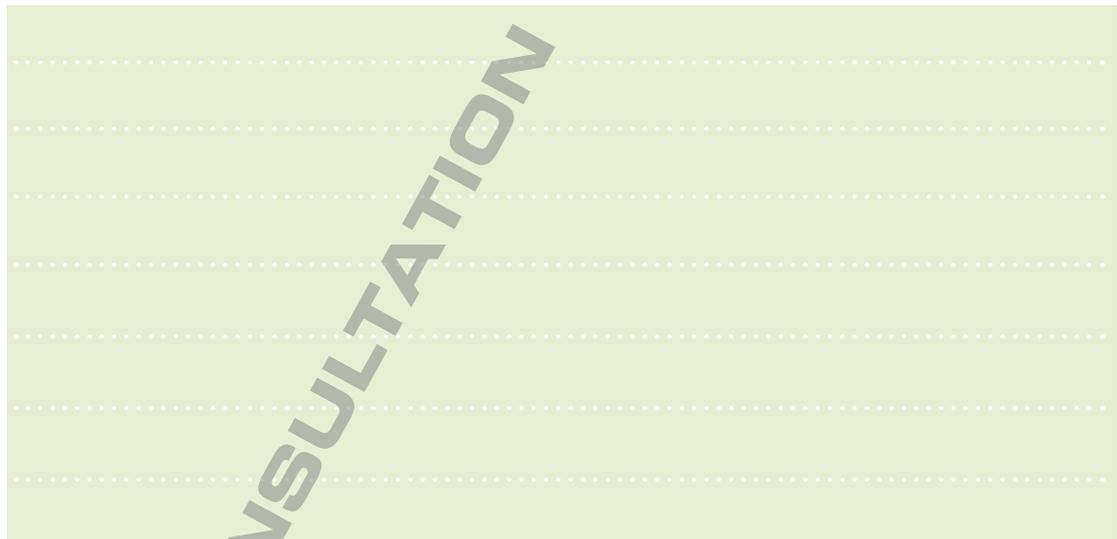
*Continue on a separate sheet if necessary.*

**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.

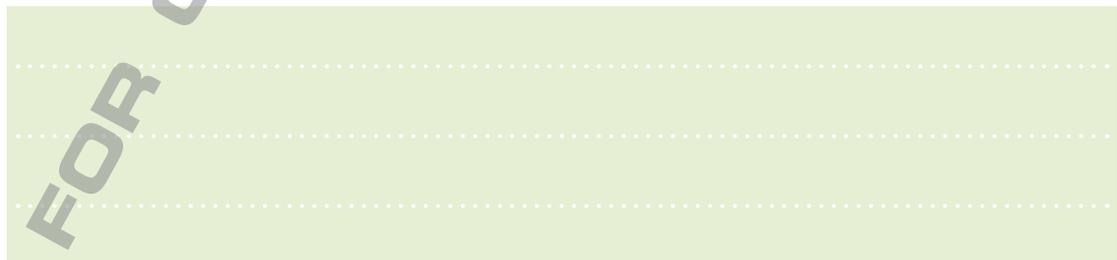
The roles and tasks are to be as stated in the Schedule of Services and the fees, excluding VAT, are as follows and are to be paid in accordance with item I of the Contract Details:

Stage	Fee	Notes
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*Continue on a separate sheet if necessary.*

If the Architect/Consultant is to undertake the role of Principal Designer, then the fees, excluding VAT, for providing this service are as follows:



*Continue on a separate sheet if necessary.*

**Other services:**

Area for detailing other services with horizontal dotted lines.

Continue on a separate sheet if necessary.

**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 (either by stating the number and/or frequency of meetings at each stage, or by simply stating the overall number of meetings to be attended):

Stage	Purpose	Total number and/or frequency allowed for	Fee <sup>1</sup>
Stage 0			
Stage 1			
Stage 2			
Stage 3			
Stage 4			
Stage 5			
Stage 6			
Stage 7 <sup>2</sup>			

OR

Overall number of meetings:

<sup>1</sup> State whether the fee for attending these meetings is included in the Basic Fee (insert 'BF') or will be provided on a time-base charge (insert 'TC')

<sup>2</sup> 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 <sup>1</sup>
Stage 5		
Stage 6		

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 (state whether £ per hour or £ per day)

*Continue on a separate sheet if necessary.*

**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 %

by the addition of the following fee to the total fee £

by the addition of % to the Basic Fee

other (please specify)

**Set out the details of the specified expenses:**

*Continue on a separate sheet if necessary.*

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  %

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

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

	A4	A3	A2	A1	A0
Black and white	£ <input type="text"/>				
Full colour	£ <input type="text"/>				

## 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  ref:

other (*please specify*)

## J. Professional Indemnity Insurance

The amount of professional indemnity insurance cover to be maintained for the Project shall be:

£  in respect of each and every claim or series of claims arising out of the same originating cause

OR

£  in the aggregate

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

Select the preferred process(es) for dispute resolution. If no options are selected, then disputes shall be referred to mediation in the first instance, and then to the appropriate court for a final decision, if necessary.

### Initial/Preferred Dispute Resolution Process

*(negotiated and selected by the Client and the Architect/Consultant)*

#### Mediation

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

Applies

#### Adjudication

In accordance with the RIBA Adjudication Scheme for Consumer Contracts.

Applies

### Final Dispute Resolution Process

*(select either arbitration or litigation)*

#### Arbitration

The Parties select arbitration for final dispute resolution.

Applies

OR

#### Litigation

The Parties select court proceedings for final dispute resolution.

Applies

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.

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## 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. Select the preferred option:

information, drawings and documents produced by the Architect/Consultant shall be provided to the Client in PDF format only

OR

information, drawings and documents produced by the Architect/Consultant shall be provided to the Client in PDF format and in the file format(s) listed below on the condition that the PDF format files take precedence and the Architect/Consultant is not liable for any loss or degradation of information resulting from the translation from the original file format to any other file format or from the recipients' reading of it in any other software or another version of the software referred to below:

Software (e.g. AutoCAD, Revit, ArchiCAD)	Version	File format (e.g. dwg, dxf, dgn, ifc, rvt)	Type of data (e.g. 2D or 3D CAD files, BIM models, spreadsheets, etc.)

OR

information, drawings and documents produced by the Architect/Consultant shall be provided to the Client in accordance with the agreed BIM protocol dated  ref:

# Contract Conditions

## Definition of Terms

**Architect<sup>3</sup>/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 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.

**Construction Phase:** the period of time beginning when construction work on a Project starts and ending when construction work in 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.

<sup>3</sup> '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 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.

**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 and may continue during the Construction Phase.

**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. 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.

FOR CONSULTATION PURPOSES ONLY

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# Clauses

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## 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.

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## 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 of any subsequent changes required, and agree steps to mitigate the consequences
  - 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.
- 2.2 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.
- 2.4 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.

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### 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. Subject to the approval of the Client, the Architect/Consultant shall have reasonable access to the Project for up to 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.
- 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.

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#### 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)
  - 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.
- 5.6 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 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.
- 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.

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## **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

the 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 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.
- 6.6 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 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 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.
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## 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 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 the Parties may agree who shall act as 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
- 10.2.5 the Adjudicator may allocate between the Parties the costs relating to the adjudication, including the fees and expenses of the Adjudicator
- 10.2.6 the adjudication rules shall be as stated in item K of the Contract Details.
- 10.3 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

- 10.4 Where it is stated in item K of the Contract Details that arbitration applies:
- 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 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

- 10.4.2 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.
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## **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, data 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.
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## **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

List the specific services that the Architect/Consultant will carry out at each stage of the Project. The Services will be 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.

## 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*)

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*Continue on a separate sheet if necessary.*

## 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. Please specify:

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- 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
- Other (*please specify*)

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*Continue on a separate sheet if necessary.*

## 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
- Other (*please specify*)

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*Continue on a separate sheet if necessary.*

## 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
- Other (*please specify*)

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*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
- 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 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 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 (*please specify*)

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*Continue on a separate sheet if necessary.*

## Stage 5 – 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 manufacturer's maintenance instructions or leaflets from the Contractor and provide to the Client
- Certify Practical Completion when this has been achieved
- Other *(please specify)*

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*Continue on a separate sheet if necessary.*

### Stage 6 – Handover and Close Out

- Carry out visual 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 work 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)*

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*Continue on a separate sheet if necessary.*

### Stage 7 – In Use

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

Services to be provided:

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*Continue on a separate sheet if necessary.*

## 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); will be carried out on a time-based charge, as per item G of the Contract Details; or will be undertaken for a lump sum charge (state the charge in the 'Other Services' section of item F of the Contract Details).

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## 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.

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## 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 subject to clause 3.1 of the Contract Conditions, deliver the following Services:

- Plan, manage and monitor the Pre-construction Phase and co-ordinate 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 co-operate 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 co-ordination 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*)
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# 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 2018 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 that work, services and/or goods.

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