



Design Spec

Fixed Fee Architecture, Made Easy.

Terms & Conditions

BETWEEN

“The Designer” of Design Spec Limited of 521 London Road, Westcliff-on-Sea,
Essex SS0 9LJ

“The Client” of

IT IS HEREBY AGREED AS FOLLOWS

1. Interpretation

- 1.1 Except where the context requires otherwise words importing the masculine shall include the feminine; words importing the single shall include the plural; words importing natural personage shall be equally applicable to corporate personage and vice versa.
- 1.2 References to any statutory provision, authority, rule or code of practice shall be deemed to include the amended version, replacements or successors of both.

2. Relationship between the Parties

- 2.1 The Client engages the Designer to provide the services specified in these terms and conditions and attached schedules.
- 2.2 No term of this agreement or course of dealings between the parties shall operate to make the Designer an employee or agent of the Client.
- 2.3 Neither party shall assign or transfer any of their rights, liabilities or obligations arising under this agreement without prior written consent of the other party.

3. The Quotation

- 3.1 The Designer shall provide to the Client a proposal for the services to be provided (“the Quotation”) which shall set out;
 - a) The services which the Designer will undertake for the Client
 - b) The date or time period within which the service will be performed
 - c) The costs which the Client shall be charged for the performance of the services including:

- i. Any fees which the Designer shall charge
 - ii. Any disbursements or expenses which the Designer will require the Client to meet
 - iii. Any VAT or tax element which will be payable by the Client.
- 3.2 The Quotation shall be attached to these terms and conditions as a schedule and where a contract is entered into between the Designer and the Client, the Client will be deemed to have accepted the content of the Quotation in full.

4. The Services and Time and Manner of their delivery

- 4.1 The Designer will provide such services to the Client as are set out in the Quotation.
- 4.2 The services will be provided to the Client within the timeframe specified in the Schedule attached hereto.
- 4.3 Time frames and dates of delivery are provided for guidance only and the Designer makes no guarantee that the services will be performed within the specified period. For the purposes of this agreement, time shall not be of the essence and the Designer shall not be liable for any loss or damage suffered by the Client as a result of the delivery of services being delayed or postponed for any reason.
- 4.4 The Quotation attached may outline preliminary design works, these preliminary designs are intended to be an inclusive to the said quotation, however should design work extend beyond reasonable alterations or differ from the original terminology given with our this quotation then the Designer retains the right to charge additional fees to cover these costs.

5. Payments

- 5.1 The contract price is set out in the Quotation, which includes details of the charges which the Designer will make as well as any taxes or additional costs or expenses or disbursements which the Designer may charge to the Client.
- 5.2 Payments to be made by the Client is set out in the Quotations.
- 5.3 Notwithstanding 5.1 and 5.2 above, the Designer may vary the contract price from the amount set out in the Quotation where he has provided services which are different or in addition to those set out in the Quotation either at the specific request of the Client or because he had been required to complete additional work which was not anticipated at the time the Quotation was made.
- 5.4 The Client agrees:
- a) Not to withhold any sums due to the Designer
 - b) To settle all invoices raised by the Designer within 7 days.
 - c) To pay to the Designer interest at the rate of 4 percentage points per annum above the Bank of England base rate on any payments which are not settled in accordance with section 5.4b.
 - d) To pay to the Designer such costs and expenses as he may incur in recovering payment from the Client where the Client fails to make payment in accordance with these terms and conditions.

6. Cancellations

In accordance with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 the Client may cancel this contract within 14 calendar days of signing this agreement (or within whatever extended period the Designer may specify in the Quotation) and shall be entitled to a full refund of any monies paid to the Designer, less an amount representing any reasonable administration costs which the Designer has incurred. Any cancellation outside this period will not entitle the Client to a refund of monies paid.

7. Client's Obligations

- 7.1 The Client shall co-operate with the Designer as may be necessary to facilitate this agreement, including but not limited to:
- a) permitting the Designer access to the property or location as required and assuring such access is appropriate and adequate
 - b) providing the Designer such facilities as may be necessary in order to allow him to complete the services
- 7.2 The Client shall allow the Designer to photograph completed schemes based upon drawings prepared by the Designer and to use such photographs on the Designer's website and in Architectural and Design Journals.
- 7.3 Following a request from the Designer to consent, which consent shall not be unreasonably withheld or delayed, to the Designer appointing a sub-consultant to perform part of the services provided by the Designer.

8. Designer's Obligations

- 8.1 The Designer shall perform all duties, services and obligations under this contract with reasonable care and skill and to a reasonable standard. He shall comply with all relevant codes or practice and statutory or regulatory requirements.
- 8.2 The Designer shall at all times hold a valid employer and public liability insurance policy.

9. Variations

In the event that the Client requires changes to the design scheme the Designer reserves the right to charge further fees should such changes involve additional expenditure or additional time being incurred by the Designer

10. Property Rights and Assumption of Risk

- 10.1 Any property rights, title or ownership in any property or materials which are used by the Designer in providing or delivering the service shall remain with the Designer until the Client has made payment in full in accordance with the Terms and Conditions.
- 10.2 Copyright in all digital media shall remain with the Designer. Any digital media, be it on CD, DVD or USB, passed to the Client is for the Client's personal use only.

11. Termination

- 11.1 This agreement shall continue until the services (or any mutually agreed addition, extension or variation thereof) have been provided, or until terminated in accordance with the below.
- 11.2 Without prejudice to the above this agreement may be terminated immediately where any of the following circumstances arise:
- a) either party commits a serious breach or persistent breaches of this agreement including but not limited to the non-performance, neglect or default of any of his duties as outlined herein (including a failure on the part of the Client to make payment within agreed

timescales) and after notice of this breach had been given to the defaulting party it remains unremedied and unrectified 7 days after such notice.

b) either party commits a breach of this agreement which cannot be remedied.

c) either party becomes insolvent or enters in to a CVA or IVA or ceases to carry on the whole or substantially the whole of its business

11.3 Upon termination of this agreement the Client shall pay the Designer such sums as may represent work done and expenses incurred up to and including the date of the termination.

11.4 Any right to terminate this agreement shall be without prejudice to any accrued rights or liabilities arising out of this agreement which are in existence at the date of termination.

12. Disclaimers and Exclusions

12.1 The Designer shall not be responsible in any circumstances to the Client or any third party for any loss of profit or indirect or consequential economic loss or damage, howsoever caused, whether as a result of negligence, misrepresentation, breach of contract or otherwise.

12.2 The Designer does not warrant that planning permission and other approvals will be granted at all, or if granted, will be granted in accordance with any anticipated time scale or without planning conditions.

12.3 The Designer does not warrant he will be able to comply with any construction cost and or construction timetable which may need to be reviewed for such matters as, but not limited to:

a) Approved variations arising from design development

b) Variations requested by the Client

c) Delays caused by a third party

d) Any factors beyond the control of the Designer

13. Indemnity

The Client shall indemnify the Designer against any loss or damage which results from the Client's breach of this agreement or failure to abide by any of its terms.

14. Force Majeure

Neither party shall be liable for any delay or failure in performing its obligations or duties under this agreement which results from circumstances outside his reasonable control including but not limited to acts of God, industrial action, war, fire, threat of terrorism, civil disturbance or rioting, government or regulatory action.

15. Warranty of Contractual Capacity

Both parties and the signatories to this agreement warrant that they are authorised and permitted to enter into this agreement, and have obtained all necessary permissions and approvals.

16. Whole Agreement, Law, Severability and Miscellaneous Provisions

16.1 This document constitutes the entirety of the agreement between the parties. It supersedes any prior representations which may have been made, whether orally or in writing. Any modification to this agreement must be made in writing and signed by both parties.

- 16.2 This agreement shall be governed by the Law of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.
- 16.3 All clauses, sub clauses and parts thereof shall be severable and shall be read and construed independently. Should any part of this agreement be found invalid this will not affect the validity or enforceability of any other provision or of this agreement as a whole.
- 16.4 All terms, conditions and covenants contained in this agreement shall bind the parties and their heirs, legal representatives, successors to title and permitted assignees.
- 16.5 Nothing in these terms and conditions shall incur any rights on a third party and no third party may enforce any provision of this contract under the Contracts (Rights of Third Parties) Act.
- 16.6 The failure by either party to enforce any provision of this agreement shall not be deemed a waiver or limitation of that party's right to subsequently compel and require strict compliance with every provision of this agreement.