

The following constitutes Our Terms and Conditions of Appointment and defines the Agreement between us

1 Preamble

- 1.1 The Contract is in accordance with the RIBA Domestic Professional Service Contract for Architectural Services (2018).
- 1.2 The Contract is between the Client and ICE Arch Limited. The Client is the body which instructs ICE Arch Limited to carry-out the Architectural Services and is deemed liable, whether or not it is acting on behalf of another body and/or company. If the Client has limited liability, then the Client's Directors are severally liable.
- 1.3 The Client must be in possession of authority to issue instructions to ICE Arch Limited. ICE Arch Limited will act on these instructions, subject to their right of reasonable objection.
- 1.4 These Terms and Conditions apply to all instructions from the Client to ICE Arch Limited. The Client's continuance of instructions will be deemed to be acceptance of these Terms and Conditions.
- 1.5 The law applicable to this Agreement shall be the law of England.

2 Architectural Services

- 2.1 The Architectural Services are offered in accordance with the RIBA Conditions of Engagement.
- 2.2 The Services provided will be as specified in the Letter of Appointment, subject to any variation to these Services that shall be specified in a Revision to this Letter of Appointment, agreed and signed by ICE Arch Limited and the Client.

3 ICE Arch Limited's Responsibilities

- 3.1 ICE Arch Limited shall
 - 3.1.1 As an RIBA Chartered Practice, practise in accordance with the RIBA Code of Practice.
 - 3.1.2 Exercise reasonable skill, care and diligence in performing the Services in accordance with the normal standard of the architect's profession for projects of a similar size, nature and complexity
 - 3.1.3 Perform the Services with due regard to the project brief, programme and costs.
 - 3.1.4 Make no material alteration to the Services or the approved design without the consent of the Client, except in an emergency or where required to do so by statutory bodies
 - 3.1.5 Advise the Client what necessary and relevant information is needed to perform the Services.
 - 3.1.6 Advise on compliance with statutory requirements.
 - 3.1.7 Advise the Client on any need to make Client Appointments to perform the work in connection with the project
 - 3.1.8 Advise on progress in the performance of the Services and, on becoming aware of any issue that may affect the programme, or the cost, or quality of the project; and advise on any information, decision or action required in mitigation
 - 3.1.9 Act as the Client's representative in matters set out in the contract, and act fairly when dealing between Client and any other party
 - 3.1.10 Cooperate with parties appointed to fulfil other services relating to the project, exchange relevant information, and, where appointed to do so, co-ordinate and integrate their work.
 - 3.1.11 Act with impartial and independent judgement when acting as an intermediary between the Client and other parties.

5 Client Responsibilities

- 5.1 The Client shall, in a timely manner:
- 5.1.1 Agree with ICE Arch Limited, their initial requirements in terms of project brief, architectural services, programme and costs. Inform ICE Arch Limited of any subsequent wish change these requirements and agree steps to mitigate the consequences.
 - 5.1.2 Provide to ICE Arch Limited, without charge, with all necessary and relevant information which is reasonably obtainable by the Client or any of the Client's agents, consultants or contractors.
 - 5.1.3 Make decisions and give all necessary instructions, consents or approvals necessary for the performance of the Services.
 - 5.1.4 Pay any statutory charges and any fees, expenses or disbursements in respect of any obligations for planning, building control and other consents.
 - 5.1.5 Sign-off designs and other Services at various pre-determined stages during the project.
 - 5.1.6 Make stage payments to ICE Arch Limited in accordance with the Letter of Appointment.
 - 5.1.7 Appoint or otherwise engage any agents, consultants or contractors require to perform related work or services, under separate agreements; require these Client Appointees to cooperate with ICE Arch Limited; and confirm to ICE Arch Limited in writing the work and services they are appointed to fulfil
 - 5.1.8 Hold Client Appointees liable, and not ICE Arch Limited, for the proper carrying-out and completion of the work and services entrusted to them.
 - 5.1.9 Pay Client Appointees for work and services done.
- 5.2 Where ICE Arch Limited is appointed as Contract Administrator for an agent, consultant or contractor, the Client shall not deal with the agent, consultant or contractor directly or interfere with the Architect's duties or actions.
- 5.3 Where ICE Arch Limited is NOT appointed as Contract Administrator for an agent, consultant or contractor, the Client shall:
- 5.3.1 Appoint competent members of their profession.
 - 5.3.2 Require the agent, consultant or contractor to provide copies of their Professional Indemnity Insurance cover and other insurances.
 - 5.3.3 Not hold ICE Arch Limited responsible for any instructions issued by the Client to the agent, consultant or contractor.
 - 5.3.4 Hold the agent, consultant or contractor responsible for the proper carrying-out and completion of their work and for health and safety provisions on the site.
- 5.4 ICE Arch Limited shall rely-on such actions and information provided by the Client as above.
- 5.5 ICE Arch Limited shall not be liable for the consequences of any shortcomings and delays to the Services arising from any failure by the Client or the Client's agents, consultants or contractors to comply with their obligations.
- 5.6 Any delay in payment of fees and other charges can and is likely to result in a delay or interruption to the project. ICE Arch Limited reserves the right not to move onto a subsequent stage of a project where fees for previous work stages are outstanding.

6 Quality Management

- 6.1 As a registered RIBA Chartered Architects practice, ICE Arch Limited is required to follow the RIBA Quality Management procedures. This gives the Client the comfort that all dealings with ICE Arch Limited will be in accordance with the Professional Standards and Codes of the RIBA and its stringent quality management procedures.

8 Targets, Programme, Cost Budgets and Other Parties

- 8.1 ICE Arch Limited cannot guarantee that any project-brief target will be met, where approvals from other parties (such as planning permission, building regulation approval, listed building and conservation consent) are required.
- 8.2 ICE Arch Limited cannot guarantee that any programme or cost budgets will be adhered-to, particularly where external forces, consultants, Local Authority, regulatory bodies, specialists, manufacturers, contractors, etc. feed into the programme, nor guarantee the performance, work or the products of others.

9 Local Authority planning and other approvals

- 9.1 ICE Arch Limited cannot guarantee that, Planning, Listed Building, Conservation Area Consent or other approvals will be achieved on any project.
- 9.2 There are occasions where a Client's specific requirements are at variance with planning or design policy in a particular area, and amendments will be necessary following the submission of the scheme to the Local Authority or approval agency, and conditions imposed by them. Indeed, it may be necessary to submit another application.
- 9.3 Local Authorities and other approvals agencies increasingly ask for supporting information to accompany applications. The exact extent of this information is subject to both national and local requirements but also to individual authorities and officers. What one Authority deems unnecessary may be an essential demand by an adjacent authority. ICE Arch Limited cannot, therefore, guarantee that all supporting documents or information requirements will be known at the time an application is submitted.
- 9.4 ICE Arch Limited uses its best endeavours to avoid these issues and advises when difficulties could be anticipated. ICE Arch Limited reserves the right to charge for time spent amending or redrawing a proposal should it ultimately prove a necessity
- 9.5 ICE Arch Limited will liaise with other parties to obtain supporting information but cannot be held responsible for the time and effort entailed. The Client should note that a Planning Authority will not register a planning application until all supporting documentation is received.
- 9.6 Where it becomes necessary to Appeal a Planning or Listed Building Consent Decision ICE Arch Limited will advise the Client of the implications. ICE Arch Limited will need to charge for the time to prepare any appeal and the necessary supporting documents and statements.
- 9.7 This may include recommending the appointment of a Planning Consultant to deal with specific Planning Policy issues. There are projects where policy issues would warrant this additional service.

10 Building Regulations and on-site works.

- 10.1 ICE Arch Limited cannot guarantee that Building Regulation Approval will be achieved on any project.
- 10.2 ICE Arch Limited has extensive experience of building construction in many sectors and contexts, and of anticipating and working with the likely difficulties a project may attract.
- 10.3 However, policy and regulation changes during a project can affect the final outcome; building and other statutory regulations are open to interpretation by individual officers; and constraints may arise with regard to the building, site conditions, environment, services, etc. In particular, when dealing with refurbishment, extension and alteration of existing buildings, many factors may only emerge during the course of construction.
- 10.4 These could impact on building conditions or construction, manufacturers' products, interpretation of regulations, etc. and hence on timescale, cost, and outcome.

12 Copyright and Licence

- 12.1 ICE Arch Limited owns the copyrights to the drawings and documents (including material in electronic format) produced in performing the Services and these remain vested in ICE Arch Limited.
- 12.2 The Client shall have a licence to copy and use the drawings and documents only for purposes related to this Project, and then only if all fees and/or other amounts due are paid in full.
- 12.3 The Client shall have a licence to use drawings only for their intended purpose. For example, drawings prepared for a planning application would only be valid for this purpose, as it will be necessary to add additional information to the drawings and documents for the purposes of building regulation approval, other regulatory approvals and construction.
- 12.4 In the event of the Client being in default of payment of any fees or other amounts due, ICE Arch Limited will revoke the licences herein granted.
- 12.5 ICE Arch Limited shall not be liable for the use by any person of drawings or other documents for any purpose other than that for which the same were licenced by ICE Arch Limited
- 12.6 Drawings and documents produced by ICE Arch Limited for one Client shall not be disclosed to another client. Neither party shall disclose to any other person any private or confidential information concerning the business of the other party unless so authorised by the other party.

13 Fees, Expenses and Disbursements

- 13.1 Fees for the Services and the estimated cost of any additional expenses and disbursements, and a schedule for stage payment of the fees, expenses and disbursements, are stated in the Letter of Appointment and agreed-to by the Client when they sign the contract prior to commencement of the Services.
- 13.2 All fees are quoted net of Value Added Tax
- 13.3 ICE Arch Limited will submit an invoice on account for fees, expenses and disbursements on completion of the work stage, or monthly, according to the schedule of stage payments. The Client will pay in full within 14 days, counted from the date of issue of the account.
- 13.4 ICE Arch Limited will not submit applications for Planning, Listed Building, Building Regulation or other approvals until the fees, expenses and disbursements for the relevant stage of the project have been paid in full.
- 13.5 ICE Arch Limited will not release drawings, specifications and other documents until the relevant fees, expenses and disbursements have been paid in full
- 13.6 The Client is responsible for the separate payment of agents, consultants and contractors.

14 Late Payment, Interest and Charges

- 14.1 Payment is due on issue of the Account.
- 14.2 The Client may not withhold payment of any sum unless they give written notice within seven days of the due date, specifying the amount to be withheld and the ground for withholding the payment. If there is more than one ground, then the amount and ground for each must be separately stated.
- 14.3 ICE Arch Limited reserves the right not to continue with Services on the project if all or part of an Account is unpaid, and not to proceed with work on a separate project for the same Client.
- 14.4 If ICE Arch Limited does not receive full payment within 14 days of the due date, interest shall be added to all unpaid amounts, calculated in accordance with the Late Payment Commercial Debts (interest) Act 1998 as amended and supplemented by the Late payment of Commercial Debts Regulations 2002 and the relevant reference rate plus the statutory rate of interest. ICE Arch Limited is required to charge this interest because of VAT and Accounts regulations relating to point of sale.
- 14.5 ICE Arch Limited reserves the right to place any debt into the hands of a debt recover agency and charge reasonable debt recovery costs.

15 Additional Work

- 15.1 If ICE Arch Limited has to carry out additional work and/or suffers delay or disruption in the performance of the Services and/or incurs extra expense, for reasons beyond their reasonable control, then the Client shall make an additional payment to ICE Arch Limited in respect of the additional work carried out and the additional resources utilised, and/or the delay and disruption suffered.
- 15.2 Any additional payment shall be calculated on a time basis in accordance with either a supplied schedule of rates or shall be accompanied by an analysis report in accordance with the hourly rates set out in the Letter of Appointment.

16 Expenses and disbursements - Printing.

- 16.1 The cost of reasonable A4 and A3 printing is included in ICE Arch Limited's fees. The Client will be charged for volume A4 and A3 printing and for A2, A1 and A0 printing, and colour prints. All prints at A2 and above and any specialist printing are carried out by an outsourced printing company. They will be charged to the Client at net cost plus 5% to cover handling and administration.

17 Expenses and disbursements - Travel

- 17.1 Reasonable travel within a 20-mile radius of ICE Arch Limited's office is included in ICE Arch Limited's fees. For longer journeys, additional meetings, site visits, visits to approval agencies, etc. the Client will be charged for the mileage at the HMRC approved rate.

18 Expenses and disbursements – Essential Purchases

- 18.1 The Client will be advised of any essential purchases when the requirement becomes known. They include such things as OS maps, historic mapping, sewer mapping, visual presentation images, mounted presentations, models, etc. They will be charged to the Client at net cost plus 5% to cover handling and administration.

19 Expenses and disbursements – submissions and inspections

- 19.1 ICE Arch Limited does NOT include planning submission fees, building regulation submission and inspection fees, and the like, in its fee for Services. When an application is ready for submission, ICE Arch Limited will request that the Client makes a direct electronic payment or makes out a cheque payable to the Local Authority / Inspector that ICE Arch Limited will submit with the application. Alternatively, ICE Arch Limited will pay on behalf of the Client and the Client will be charged the fee plus 5% for handling and administration.

20 Fees for agents, consultants and contractors.

- 20.1 ICE Arch Limited does not include these in its fee for Services.
- 20.2 At the appropriate stage in the project, as soon as the requirement becomes known, ICE Arch Limited will recommend the appointment of specialist consultants. During scheme design and detail design, the need may become clear for a structural engineer, M & E consultant, quantity surveyor, planning consultant, etc. Other specialist advice and reports may be needed for arboricultural issues, protected species surveys, energy efficiency calculations, EPC certificates, Pressure testing, SAP calculations, SBEM calculations and such like, particularly when requested by the local authority during the application process.
- 20.3 ICE Arch Limited will obtain fee proposals/quotes on the Client's behalf and advise on their appointment. The appointment is an agreement between the consultant and Client direct.

21 Communication and Record Keeping

- 21.1 ICE Arch Limited shall keep and make available to the Client on request, records of travel, any expenses and disbursements to be reimbursed and time spent on Services charged on a time basis. If the Client requires time records, the Client must inform ICE Arch Limited of this at the start of the project.
- 21.2 Unless the Client withdraws consent, ICE Arch Limited will communicate with the Client and other interested parties by email but cannot be responsible for the security of correspondence sent by this means. It is the Client's responsibility to check incoming email and attachments for authenticity and freedom from viruses
- 21.3 ICE Arch Limited aims for a paperless storage policy. Paper copies of documents are held whilst the stage of the project to which they relate is in progress. ICE Arch Limited is entitled to, and will, retain all papers and documents while money is owing. Once monies are paid, ICE Arch Limited will send the Client the originals of any important documents for their safekeeping. The Client should keep any Planning, Listed Building and Building Regulation approval documents, completion certificates, and any other approvals safely, as these will be required as part of the sale of any property/land for which they relate.
- 21.4 ICE Arch Limited will then store documents electronically until the limit of ICE Arch Limited's liability has expired. The RIBA requires ICE Arch Limited to keep drawings and documents for two years after completion of the Contract Limitation which is 6 years where a contract is executed under standard terms, and 12 years where a contract is executed as a deed. After this period has expired, ICE Arch Limited will destroy them. At any time during this period, the Client may request copies of any documents, and ICE Arch Limited will make a charge for retrieval from archive, copying and printing.

22 Suspending or Terminating the Agreement

- 22.1 The Client or ICE Arch Limited may suspend or end performance of any or all of the Services by giving at least 7 days' written notice of the intention and stating the reason for doing so. Any notice given in connection with the ICE Arch Limited Agreement shall be sent by first class letter to the Client or ICE Limited address given in the Letter of Appointment.
- 22.2 If the reason for the notice arises from a default and the recipient does not remedy the matter, the Agreement will end on expiry of the notice period.
- 22.3 Where Services are suspended by the Client and not resumed within 3 months then ICE Arch Limited shall have the right to treat performance of the affected Services as ended on giving written notice to the Client.
- 22.4 Where Services are suspended or terminated, ICE Arch Limited shall be entitled to keep any papers, drawings and other documents, whilst there is money owing to ICE Arch Limited for fees, expenses and disbursements.
- 22.5 In the event of any termination the Client shall pay ICE a fair and reasonable amount of the fees commensurate with the Services performed to the date of such termination, plus expenses and disbursements incurred by ICE Arch Limited.
- 22.6 Termination of the ICE Arch Limited appointment shall not prejudice or affect the accrued rights or claims of either party.
- 22.7 The following are some (not all) examples where suspension and/or termination may occur:
- 22.7.1 ICE Arch Limited may decide to withhold Services if the client does not pay an interim invoice or comply with a request for payment on account
- 22.7.2 ICE Arch Limited or the Client may terminate the Agreement in the event of insolvency. In these terms, 'insolvency' shall mean either party becoming bankrupt, going into liquidation (either voluntarily or compulsory except as part of an amalgamation), being dissolved compounding with its creditors or having a receiver or administrative receiver appointed of the whole or part of its assets.
- 22.7.3 ICE Arch Limited may decide to terminate the Agreement if circumstances arise for which ICE are not responsible and which ICE considers make it irresponsible for them to perform any part of the Service.

23 Dispute Resolution

- 23.1 In the event of a dispute or difference arising under this Agreement, the matter should be raised in writing. ICE Arch Limited and the Client shall attempt in good faith to settle the matter by negotiation or mediation. Either may make a decision within 21 days by an adjudicator appointed under the Consumer Adjudication scheme. Where the appointment of ICE Arch Limited is deemed to be a construction contract within the meaning of the Housing Grants, Construction and Regeneration Act 1996 either party may refer the matter to adjudication in accordance with the Construction Industry Council Model Adjudication Procedure. Either can start court proceedings to settle the dispute at any time

24 Liability and Insurance

- 24.1 Architects are subject to the disciplinary sanction of the Architects Registration Board in relation to unacceptable professional conduct or serious professional incompetence.
- 24.2 ICE Arch Limited is required to set the limit of its liability to the Client in contract, tort or statutory duty for any one claim or series of claims arising from one event on any project by the Architects Registration Board.
- 24.3 Notwithstanding anything to the contrary, the total liability of ICE Arch Limited under or in connection with this appointment whether in contract or in tort or in negligence or breach of statutory duty or otherwise (other than in respect of personal injury or death) shall not exceed the sum of £2m.
- 24.4 Subject to the preceding clause, but notwithstanding otherwise anything to the contrary, such liability of ICE Arch Limited for any claim or claims shall further be limited to such sum as it would be just and equitable for ICE Arch Limited to pay having regard to the extent of ICE Arch Limited's responsibility for the loss or damage suffered as a result of the occurrence or series of occurrences in question (the loss and damage) and on assumption that:
- 24.5 All other agents, consultants, contractors and sub-contractors appointed in connection with the project in question shall have provided contractual undertakings on terms no less onerous than those set out to the Client in respect of the carrying out of their obligations, and
- 24.6 There are no exclusions or limitations of liability nor joint insurance or co-insurance provisions between the Client and any other party referred to in this clause and any such other party who is responsible to any extent for the loss and damage is contractually liable to the Client for the loss and damage, and
- 24.7 All such other agents, consultants, contractors and sub-contractors have paid to the Client such proportion of the loss and damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss and damage.
- 24.8 For works contracts below £1m contract value, such liability of ICE Arch Limited for any claim or claims shall further be limited to an amount apportioned to the amount of the Target Cost for the building work relating to Architectural elements of the Design and be superseded by the tendered agreed and signed contract sum once the contract for Building Work is signed between the Client and Contractor.
- 24.9 For contracts in excess of £1m construction value, such liability of ICE Arch Limited for any claim or claims shall be limited to an amount apportioned to the Architectural elements of the Design, and liability for all other elements should be set against the Designer associated with that element.
- 24.10 No action or proceedings whether in contract or in tort in negligence or for breach of statutory duty or otherwise shall be commenced against ICE Arch Limited after expiry of six years, which shall commence from the date of the Letter of Appointment.
- 24.11 Save in respect of death and personal injury the Client shall look only to ICE Arch Limited (and not to any individual) for redress where the Client considers that there has been any breach of ICE Arch Limited's duties. The Client agrees not to pursue any claims in contract, tort, or statute (including negligence) against any individual as a result of carrying out ICE Arch Limited's obligations at any time, whether named expressly or not. "individual" shall mean an employee or member of ICE Arch Limited. Any such employee or member includes any ICE Arch Limited staff member, principal, director or consultant.

24.12 ICE Arch Limited shall maintain professional indemnity insurance in an amount sufficient to cover its liabilities hereunder, and public liability insurance, provided always that such insurance is available at commercially reasonable rates and terms. Professional liability will relate to Architectural Design items, any liability for other design elements will be carried by other appointed Consultants, or specialist manufacturers and the like. ICE Arch Limited will provide documentary evidence of its professional indemnity insurance, if required.

24.13 Target Cost of Construction

24.13.1 The Target Cost for a new build will be derived using the floor area of a property of this size/type set at current cost per square metre standard construction basis as specified in the Letter of Appointment, or subsequently the construction cost advised by the quantity surveyor, or the building contract sum, whichever is lower

24.13.2 The Target Cost for alteration extension or refurbishment of an existing building will be the estimate of the construction cost, as specified in the Letter of Appointment, and subsequently the construction cost advised by the quantity surveyor, or the building contract sum, whichever is lower

25 Limits of Liability

25.1 ICE Arch Limited is not responsible under this Agreement or otherwise for advising on matters wholly, partly, directly, or indirectly arising out of or resulting from asbestos or other deleterious material (including without limitation the costs of testing for, monitoring, abatement, mitigation, removal, remediation or disposal of any products or waste that contains such deleterious materials)

25.2 ICE Arch Limited is not responsible under this Agreement or otherwise for designing or advising on or otherwise taking measures to prevent or mitigate the effect of any act of terrorism or any action that may be taken in controlling preventing, suppressing or any way relating to an act of terrorism.

26 Assignment of the Agreement

26.1 Neither the Client nor ICE Arch Limited shall assign or transfer any benefits or obligations conferred by the Appointment of ICE without the prior written consent of the other. Such consent shall not be unreasonably withheld or delayed.

26.2 Save in respect of the benefits or rights conferred on individuals, pursuant to confer or any third party any benefit or any right enforce anything in these terms under the Contracts (Rights of the Third Parties Act 1999).

26.3 Unless any part or all of the Agreement is transferred with consent to another person, nothing in this Agreement shall confer or purport to confer on any third party, and benefit or right to enforce any term of this Agreement.

27 Collateral Warranties

27.1 No allowance has been made for the provision of Collateral Warranties under this Agreement. Should warranties be required an additional charge will be made for the time spent in vetting and completing these at a rate of £95 per hour, or other such hourly rate as advised by ICE Arch Limited's professional insurance insurers.

28 GDPR Compliance

28.1 Privacy is important to ICE Arch Limited. ICE Arch Limited's Privacy Policy covers what Client information and how it is collected, used, stored, transferred and disclosed and published on the ICE Arch Limited website.

A G Taylor-Stokes
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