


Conditions of Appointment

including
Schedule of Fees and Conditions

Notes to the client (not forming part of the conditions):

- this document is Austin Winkley & Associates' standard conditions of appointment. Please read it through and come back to us if you have any questions about the terms, or if you (or your advisors) wish to negotiate any changes to them
- please note particularly that these conditions **include clauses (numbers 3-7) which limit liability** 
- your continuing instructions to us will indicate agreement to these conditions

We are required by our professional Codes of Conduct to notify you at the time of our appointment of the following:

- as architects, we are subject to the disciplinary sanction of the *Architects Registration Board* ("ARB") in relation to complaints of unacceptable professional conduct or serious professional incompetence. The board's details are: Architect's Registration Board, 8 Weymouth Street, London W1N 3FB (tel 020 7580 5861 email info@arb.org.uk www.arb.org.uk). We aim to give a high standard of service to all our clients, but please do not hesitate to bring to our attention in the first instance any complaints or worries you may have
- we carry professional indemnity insurance, to an amount suitable for the projects we carry out. This is a requirement of the ARB Code of Conduct

Schedule of Fees

Fees to be determined by time charge at the following hourly rates:

| | |
|--------------------------------------|---------|
| Director (Tim Gough) | £105.00 |
| Consultant (Austin Winkley) | £105.00 |
| Other rates: by notice to the Client | |

The above rates exclude expenses, which are charged in addition at 6% of fee; and exclude VAT, which is charged at current rates



Conditions

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| Obligations | <p>1. The Architecture Firm shall:</p> <ul style="list-style-type: none"> • act on behalf of the Client in the matters set out or necessarily implied in this Agreement • in providing the services, exercise reasonable skill and care in conformity with the normal standards of the architectural profession <p>2. The Client shall where appropriate:</p> <ul style="list-style-type: none"> • advise of any budget, the timetable and the relative priorities of the Client's requirements • advise of any changes to these • give information, decisions and approvals necessary for the performance of the Architecture Firm's services • employ and pay contractors, other consultants and specialists for the project; and shall hold them, and not the Architecture Firm, responsible for the competence and performance of their services • be responsible for making financial checks on contractors, other consultants and specialists • pay any statutory charges and fees associated with the project, such as planning application fees |
| Limitation of liability | <p>3. No action or proceedings for a breach of this Agreement or under or in connection with all or any of the services undertaken by the Architecture Firm in or pursuant to this Agreement contract, negligence, tort, statutory duty or otherwise, shall be commenced against the Architecture Firm after the expiry of 6 years from the date of the last services provided under this Agreement, or, where applicable, from the date of practical completion of the Project if this is an earlier date. The liability of the Architecture Firm for any loss or damage arising out of any such action or proceedings shall be limited to £200,000</p> <p>4. The liability of the Architecture Firm under or in connection with this Agreement for any claim shall not exceed the amount, if any, recoverable by the Architecture Firm by way of indemnity against the claim in question under professional indemnity insurance taken out by the Architecture Firm and in force at the time that the claims or (if earlier) circumstances that may give rise to the claim is or are reported to the insurers in question</p> <p>5. The advice and actions taken by the Architecture Firm under or in connection this Agreement shall not be deemed absolute. The Architecture Firm does not warrant results or outcomes beyond its control, including but not limited to:</p> <ul style="list-style-type: none"> • the performance, work or products of others • that the services will be completed in accordance with any programme or timetable for the Project • that any planning permission will be granted <p>6. The Client shall hold the Architecture Firm, and not any of the Architecture Firm's employees or directors, responsible for the performance of services under this Agreement</p> <p>7. No term of this agreement may be enforced solely by virtue of section 1 of the Contracts (Rights of Third Parties) Act 1999</p> |
| Payment | <p>8. Fees will be charged in instalments as required by the Architecture Firm</p> <p>9. The Architecture Firm, when submitting an invoice, shall state the basis on which the amount due is calculated</p> <p>10. Time charge fees are ascertained by multiplying the time reasonably spent (including travelling time) on the services by the hourly rate</p> <p>11. Time charge rates may be revised by the Architecture Firm every April</p> <p>12. The Client shall reimburse the Architecture Firm for any disbursements made on the Client's behalf</p> <p>13. Payment is due from the date on the invoice, and the Final Date for Payment by the Client is 28 calendar days from that date</p> <p>14. The Client shall not withhold or reduce any sum payable under this Agreement by reason of claims or alleged claims against the Architecture Firm</p> <p>15. A written notice from the Client to the Architecture Firm:</p> <ul style="list-style-type: none"> • may be given within 7 calendar days of the date of issue of an invoice specifying the amount the Client proposes to pay and the basis of calculation of that amount; and/or • shall be given not later than 5 calendar days before the Final Date for Payment of any amount due to the Architecture Firm, if the Client intends to withhold payment of any part of that amount, stating the amount proposed to be withheld and the ground for doing so, or if there is more than one ground each ground and the amount attributable to it <p>If no such notices are given, then the amount due is the amount stated on the invoice</p> <p>16. The Client shall not delay payment of any undisputed part of an invoice</p> <p>17. If any sums remain unpaid after the Final Date for Payment:</p> <ul style="list-style-type: none"> • they shall bear interest, compounded month by month, at 8% over the current Bank of England base rate • the Client shall pay the Architecture Firm the reasonable costs, including the costs of the Architecture Firm's time and any legal costs, that the Architecture Firm has incurred in recovering any such sums • the Architecture Firm may suspend the performance of any or all of the services by giving seven days' notice in writing to the Client |
| Copyright | <p>18. Copyright in all documents and drawings prepared by the Architecture Firm in connection with the Project under this Agreement shall remain the property of the Architecture Firm. After the Client has paid all outstanding fees and other amounts due to the Architecture Firm, the Client shall be entitled to copy and use the documents for the purpose for which they have been prepared. The Architecture Firm shall not be liable in the event of use for any other purpose than that for which the documents were prepared</p> |
| Termination etc | <p>19. Neither the Architecture Firm nor the Client shall assign the whole or any part of the benefit or in any way transfer the obligation under this Agreement without the consent in writing of the other</p> <p>20. This Agreement shall be governed by the laws of England and Wales</p> <p>21. The Client or the Architecture Firm may, by giving reasonable notice to the other, suspend or terminate performance of the whole or part of the services. If the performance of any or all of the services suspended is not resumed within six months, the Architecture Firm may by notice in writing to the Client terminate this Agreement</p> <p>22. In the event of any differences or disputes arising out of this Agreement:</p> <ul style="list-style-type: none"> • the parties shall initially attempt to settle such differences or disputes by negotiation • the differences or disputes may be referred by either party to adjudication. The adjudicator shall be a person to be agreed between the parties or, in absence of such agreement and on the application of the party referring the dispute, a person appointed as adjudicator by the Royal Institute of British Architects. Adjudication shall proceed and be conducted in accordance with the Construction Industry Council Model Adjudication Procedures (paragraph 25 of this procedure not to apply) • the differences or disputes may be referred by either party to arbitration by a person to be agreed between the parties or, failing agreement within 14 days after either party has given the other a written request to concur in the appointment of an arbitrator, a person to be nominated at the request of either party by the President of the Royal Institute of British Architects |

