

## Concept Design & Planning LTD Standard Terms and Conditions

### Definitions

#### The Agreement

The term Agreement shall refer to the fee agreement and include these terms and conditions.

#### Architects / Agents

The term Architects or Agents shall be deemed also to include Interior Designer as appropriate.

#### Brief

At project inception, the clients initial requirements. This is amendable as agreed between parties as the project develops.

#### Consultant

A person, company or firm appointed by the client to carry out professional services for the project.

#### Services

The Services to be performed as specified in the agreement as may be varied by the Client in accordance with this Agreement.

#### Timetable

The period of time agreed between parties as reasonable to allow the completion of the Services.

#### General

#### Obligations and authority of Concept Design & Planning

##### Duty of care

Concept Design & Planning in performing the Services shall exercise reasonable skill and care in conformity with the normal standards of the profession.

##### Authority

Concept Design & Planning shall act on behalf of the Client in the matters set out or necessarily implied in the Agreement or in project procedures agreed with the Client from time to time.

##### Reports

Concept Design & Planning shall keep the Client informed of progress in the performance of the services and any issue that may affect the Timetable for or the cost or quality of the Project.

##### Limitation of warranty

###### Concept Design & Planning does not warrant:

That the Services will be completed in accordance with the Timetable or the budget cost for construction cost;  
That planning permission and other approvals from third parties will be granted;  
The performance, work or products of others;  
The solvency of any other appointed person whether or not such appointment was made on the advice of Concept Design & Planning.

##### No alteration to services or design

Concept Design & Planning shall not make or cause to be made any material alteration to or omission from the Services or the approved design without the knowledge and consent of the Client. In an emergency Concept Design & Planning may make or cause to be made such alteration, addition or omission without the knowledge and consent of the Client but shall inform the Client without delay.

##### Obligations and authority of the Client

###### Information, decisions, approvals and instructions:

The Client shall supply, free of charge, accurate information as necessary for the proper and timely performance of the Services.

The Client, when requested by Concept Design & Planning, shall give decisions and approvals as necessary for the proper and timely performance of the Services.

The Client shall advise Concept Design & Planning of the relative priorities of the Brief, the Construction Cost and the Timetable.

The Client shall have authority to issue instructions to Concept Design & Planning, subject to Concept Design & Planning's right of reasonable objection.

##### Statutory & other consents required

The Client shall instruct the making of applications under planning legislation, building acts, regulations or other statutory requirements and by freeholders and others having an interest in the Project. The Client shall pay any statutory charges and any fees, expenses and disbursements in respect of such applications.

The Client shall not hold Concept Design & Planning responsible for the outcome of any planning decisions made by the authorities.

The Client shall not require Concept Design & Planning to enter any Collateral Agreement with a third party which imposes greater obligations or liabilities on Concept Design & Planning than does the Agreement.

##### Appointment and payment of others

Where it is agreed that Consultants or other persons are to be appointed, the Client shall appoint and pay them under separate agreements and shall confirm in writing to Concept Design & Planning the services to be performed by such persons so appointed.

The Client shall employ a contractor under a separate agreement to undertake construction or other works relating to the Project

The Client shall hold the Contractor and not Concept Design & Planning responsible for the contractor's management and operational methods and for the proper carrying out and completion of the Works and for health and safety provisions on the Site.

The Client shall hold the contractor and not Concept Design & Planning responsible for the proper installation of all products and materials into the Works.

The Client shall, where Concept Design & Planning consents to enter into a Collateral Agreement with a third party in respect of the Project, procure that the contractor is equally bound by reference to its contractual obligations to the Client.

The Client shall only issue instructions to the contractor through Concept Design & Planning, and the Client shall not hold Concept Design & Planning responsible for any instructions issued other than through Concept Design & Planning.

##### Responsibilities of others

The Client, in respect of any work or services in connection with the Project performed or to be performed by any person other than Concept Design & Planning, shall:

Hold such person responsible for the competence and performance of the services and for visits to the site in connection with the work undertaken by such person;

Require such person to co-operate with Concept Design & Planning and provide to Concept Design & Planning all drawings and information reasonably needed for the proper and timely performance of the Services;

Require such person, when requested by Concept Design & Planning, to consider and comment on work of Concept Design & Planning in relation to the work of such person so that Concept Design & Planning may consider making any necessary change to Concept Design & Planning's work.

The Client shall hold the Main Contractor and/or other contractors appointed to undertake construction works, and not Concept Design & Planning responsible for the management and operational methods necessary for the proper carrying out and completion of the construction works in compliance with the building contract and for health and safety provisions on the Site.

##### Site signboards

The Client shall allow Concept Design & Planning to display standard sized professional signboards on the site in appropriate locations for the duration of works on site. On larger sites the display of purpose made publicity banners may also be requested following discussion between Architect / Agent and Client and permission shall not be unreasonably withheld.

##### Fees for performance of the Services

The fees for performance of the Services, including any additional or other services, shall be calculated and charged as set out in the Agreement.

##### Extra Fees

Extra Fees, calculated on a time basis unless otherwise agreed, shall be payable to Concept Design & Planning, if:

Concept Design & Planning is involved in extra work or incurs extra expense for reasons beyond the control of Concept Design & Planning. Reasons for such entitlement include, but shall not be limited to:

Concept Design & Planning being required to vary any item of work commenced or completed pursuant to the Agreement and/or performance of the Services being delayed, disrupted or prolonged;

If Concept Design & Planning consents to enter into any third party agreement the form or beneficiary of which had not been agreed by Concept Design & Planning at the date of the Agreement. Concept Design & Planning shall be entitled to payment of Concept Design & Planning's reasonable costs of assuming such additional liability, including but not limited to legal advice and obtaining any additional professional indemnity insurance required.

Concept Design & Planning shall inform the Client on becoming aware that this clause will apply. This clause shall not apply where the extra work or expense to which it refers is due to a breach of the Agreement by Concept Design & Planning.

Where Concept Design & Planning deals with enforcement issues this will be charged at an hourly rate of £70 per hour. Any appeal work considered additional to the appeal fee quote will be charged at £90 per hour over and above the appeal fee.

Any meetings will be charged at a flat rate of £150 per meeting.

This does not include mileage printing etc.

Should any case go to appeal we will quote a flat fee at the time

##### Expenses and Disbursements

The Client shall reimburse Concept Design & Planning for specified expenses in the manner stated in the Agreement. Expenses other than those specified and incurred with the prior authorisation of the Client and any disbursements made on the Client's behalf shall be reimbursed at net cost plus any handling charge stated in the Agreement. Rates are reviewed annually and will become effective upon issue.

##### Maintain records

Concept Design & Planning shall maintain basic records of time spent on Services performed on a time basis and of any Expenses and Disbursements to be reimbursed at net cost and shall make these available to the Client on reasonable request.

##### Payment

Payments under the Agreement shall become due to Concept Design & Planning on issue of Concept Design & Planning's accounts. The final date for such payments by the Client shall be 21 days from the date of issue of an account.

Installments of fees shall be calculated on the basis of Concept Design & Planning's estimate of the percentage of completion of the stages or other Services or such other method as is specified in the Agreement.

All rights of set-off at common law or in equity are hereby expressly excluded.

##### Late payment

Any sums due and remaining unpaid at the expiry of 21 days after the date of issue of an account from Concept Design & Planning shall bear interest in accordance with the provisions of this appointment, at 2% per month from the date of issue of the account. An administration charge will also be added.

##### Recovery of costs

The Client shall indemnify Concept Design & Planning in respect of all costs reasonably incurred by Concept Design & Planning (including costs of Concept Design & Planning's time) in recovering any amount not paid when due and/or interest arising; or in relation to any claim or any part of any claim made by the Client which Concept Design & Planning successfully defends or the Client abandons.

##### Payment on suspension or determination

If the performance of the Services is suspended or determined, Concept Design & Planning shall issue an account or accounts in accordance with the Agreement for, and shall be entitled to payment of:

Any part of the fee or other amounts due at the date of suspension or determination; and  
Any loss and/or damage caused to Concept Design & Planning by the suspension and any resumption or the determination together with any license fee due if the notice of suspension or determination is given;

By the Client, except where the suspension or determination arises from a material breach of the Agreement by Concept Design & Planning; or  
By Concept Design & Planning because of a breach of the Agreement by the Client.

##### VAT

Fees and expenses arising under the Agreement do not include value added tax. The Client shall pay any value added tax chargeable on the net value of Concept Design & Planning's fees and expenses.

##### Copyright and use of information

###### Copyright

Concept Design & Planning owns the copyright in the work produced in the performance of the Services and generally asserts Concept Design & Planning's moral rights and all other rights to be identified as the author of the artistic work/work of architecture comprising the Project.

###### Use of information

The Client shall have a license to copy and use and allow other Consultants and contractors providing services to the Project to use and copy drawings, documents and bespoke software produced by Concept Design & Planning in performing the Services, hereinafter called 'the Material', but only for purposes related to the Project on the Site or part of the Site to which the design relates. Such purposes shall include operation, maintenance, repair, reinstatement, alteration, extending, promotion, leasing and/or sale of the Project but shall exclude the reproduction of Concept Design & Planning's design for any part of any extension of the Project and/or for any other project, unless a license fee in respect of any identified part of Concept Design & Planning's design is stated in the Agreement.

###### Provided that:

Concept Design & Planning shall not be liable if the Material is modified other than by or with the consent of Concept Design & Planning, or used for any purpose other than that for which it was prepared, or used for any unauthorised purpose;

If it is intended to make any permitted use after the date of the last Service performed under the Agreement and prior to practical completion of the construction of the Project, the Client shall:

(a) obtain Concept Design & Planning's confirmation of the degree of completion of the Material; and (b) pay to Concept Design & Planning any license fee specified in the Agreement or a reasonable license fee;

In the event of the Client being in default of payment of any fees or other amounts due, Concept Design & Planning may suspend further use of the license on giving 7 days' notice of the intention of doing so. Use of the license may be resumed on receipt of outstanding amounts;

The Client shall obtain or ensure that any third party shall obtain any necessary license and pay any fees arising for access to any software used to produce any of the Material.

Concept Design & Planning shall have the right to reproduce photographs and descriptive text of the Project in their practice brochures, Website, newspapers, magazines, competition entries and other presentation material.

Neither the Client nor Concept Design & Planning shall disclose to any other person information identified in writing as confidential unless reasonably necessary:

For performance of the Services; or

In order to take professional advice in relation to the Agreement or the Services; or  
In order to obtain/maintain insurance cover as required by the Agreement; or  
Because of disputes arising out of or in connection with the Agreement; or  
As required by law.

Concept Design & Planning shall not be required or be under any duty to release or disclose any information on their files that it may have or be deemed to have about any matter if Concept Design & Planning believes this to be not in their best interests.

##### Liabilities and insurance

###### Professional indemnity insurance

Concept Design & Planning shall obtain professional indemnity insurance for not less than the amount stated in the Agreement for any one occurrence or series of occurrences arising out of anyone event.

Concept Design & Planning shall maintain such insurance until at least the expiry of the period stated in the Agreement from the date of the last Services performed under the Agreement or (if earlier) practical completion of the construction of the Project provided such insurance is available at commercially reasonable rates and generally available in the insurance market to Concept Design & Planning.

Concept Design & Planning, when reasonably requested by the Client, shall produce for inspection documentary evidence that the professional indemnity insurance required under the Agreement has been obtained and/or is being maintained.

Concept Design & Planning shall inform the Client if such insurance

is or becomes unavailable for any aspect of the Project specified by the insurer including, but not limited to, any material, such as asbestos or any event such as an act of terrorism; or

Ceases to be available at commercially reasonable rates in order that Concept Design & Planning and Client can discuss the best means of protecting their respective positions in respect of the Project in the absence of such insurance.

No liability shall attach to Concept Design & Planning in respect of services except such liability as is covered by Concept Design & Planning's professional indemnity insurance.

No liability shall attach to Concept Design & Planning either in contract or in tort for loss, injury or damage sustained as a result of the act, omission or insolvency of any person other than Concept Design & Planning and Concept Design & Planning shall not be liable to indemnify the Employer in respect of any claim made against the Employer for any such loss, injury or damage.

##### Third Party Agreements

Where the Client has notified, prior to the signing of this Agreement, that Concept Design & Planning will be required to enter into an agreement with a third party or third parties and the terms of which and the names or categories of other parties who will sign similar agreements are set out in an annex to this Agreement, then Concept Design & Planning shall enter into such an agreement or agreements within a reasonable period of being requested to do so by the Client, providing that all fees and other amounts due have been paid.

##### Rights of third parties

For the avoidance of doubt nothing in this Agreement shall confer or purport to confer on any third party other than lawful assignees any benefit or the right to enforce any term of this Agreement.

##### Suspension and determination

###### Suspension

The Client may suspend the performance of any or all of the Services by giving at least 7 days' notice to Concept Design & Planning. The notice shall specify the Services affected.

Concept Design & Planning may suspend performance of the Services and the obligations under the Agreement on giving at least 7 days' notice to the Client of the intention and the grounds for doing so in the event that the Client:

Is in default of payment of any fees or other amounts due; or  
Fails to comply with the requirements under the CDM Regulations.

When the reason for the suspension is removed or resolved Concept Design & Planning may resume performance of the Services and obligations.

If any period of suspension arising from a valid notice given above, exceeds 6 months Concept Design & Planning shall request the Client to issue instructions to proceed with the suspended Service or Services and give notice that if written instructions have not been received within 30 days of the date of such request Concept Design & Planning shall have the right to treat performance of any Service or obligations affected as determined.

Any period of suspension arising from a valid notice given shall be disregarded in computing any contractual date for completion of the Services.

###### Determination

The Client or Concept Design & Planning may by giving reasonable notice in writing to the other determine performance of any or all of the Services and Concept Design & Planning's obligations under the Agreement, stating the grounds for doing so and the Services and obligations affected.

Performance of the Services and Concept Design & Planning's obligations of these Conditions may be determined immediately by notice from either party if:

The Client or Concept Design & Planning becomes insolvent, which term shall have the meanings set out in section 113 (2-5) of the *Housing Grants, Construction and Regeneration Act 1996*, or  
Concept Design & Planning becomes unable to provide the Services through death or incapacity.

On determination of performance of the services or Concept Design & Planning's obligations under the Agreement a copy of the Material referred to in 'use of information' clause above, shall be delivered on demand to the Client by Concept Design & Planning, subject to the terms of the license and payment of Concept Design & Planning's reasonable copying charges.

Determination of the performance of the Services or Concept Design & Planning's obligations shall be without prejudice to the accrued rights and remedies of either party.

###### Dispute resolution

###### Negotiation or mediation

In the event of any dispute or difference arising under the Agreement, the Client and Concept Design & Planning may attempt to settle such dispute or difference by negotiation.

Any dispute or difference in connection with the enforcement of a decision of an adjudicator shall be referred to the courts.

##### Hourly Time-charges and Disbursements

Director	£120
Architect / Interior Designer / Senior Technician	£60-80
Architectural Assistant / Technician	£25-£50
Viability work undertaken by a Director	£125
Appeal work undertaken by Director	£150
Work related to enforcement cases	£150

##### Disbursements

Computer Originals	
A0	£5 each
A1	£4
A2	£3
A3	£2
A4	£1

##### Travel

TBA