

**M3 Consultancy LLP
Terms of Business
England and Wales**

OUR AIM

Our aim is to build a long term business relationship with our clients based on mutual trust. To achieve this we realise that we need to provide the value for money, quality service you require along with the skills, experience, attention to detail and diligence expected of a professional company in the provision of consultancy services.

1. INTRODUCTION

- 1.1 We recognise the need to formally document our relationship with our clients. These are the terms of business that will apply to the services provided by us. These terms will complement and be in addition to the detail in our "Proposal" which confirms your instructions. The terms of the "Proposal" read together with these terms of business will form "the Contract" between us. The obligations of each party will therefore be defined in "the Contract", to the exclusion of any other communications between us and to the exclusion of any other terms or conditions.
- 1.2 No amendment or variation to the Contract will be binding on us unless approved in writing and signed by one of our Partners.
- 1.3 The services we provide are for the exclusive benefit of the client only as detailed in the Proposal. Unless we agree otherwise, no third party shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 1.4 We are a Limited Liability Partnership.

2. OUR OBLIGATIONS

- 2.1 To perform the services detailed in our Proposal ("the Services") subject to and in accordance with these terms of business,
- 2.2 To liaise, co-operate and keep your representatives and other professional advisors or contractors engaged by you fully informed.
- 2.3 To advise you of all individual persons who will act on our behalf in the provision of services for you.

3. THE CLIENT'S OBLIGATIONS

- 3.1 To provide us with all the information in your possession relating to the Services.
- 3.2 To provide any other information that we may reasonably request within an agreed timescale.

- 3.3 To instruct your other professional advisors and contractors to provide information relevant to the Services.
- 3.4 Where necessary make your relevant staff available for interview, attendance at meetings, forums etc.
- 3.5 Give us your decision on all reports, recommendations and any other matters which are referred to you as soon as is reasonably possible.
- 3.6 To expect to be able to rely upon information and or advice given by you or other professional advisors or contractors engaged by you.
- 3.7 To agree with us a reasonable programme for the Services. If you are unable to provide information to meet the programme, you will be liable for any reasonable costs for our additional time and expense.
- 3.8 Where applicable, comply with the obligations of the "Client" in respect of health and safety issues as detailed in the Construction (Design and Management) Regulations 1994.

4. INTERIM MANAGEMENT

- 4.1 Interim Managers we supply to you are deemed to be under your supervision, direction and control from the time they report to take up duties and for the duration of their assignment. You will comply with the Health and Safety at Work Act, by-laws, codes of practice and all legal requirements to which you are normally subject and take on full responsibility for our staff for the duration of their assignment in respect of Health and Safety at Work, performance, and all other management and supervision obligations.
- 4.2 Our Interim Managers will not take on the responsibility of duty holder or employer as defined in the Control of Asbestos at Work Regulations (CAWR) 2002.

5. ADDITIONAL SERVICES

There are occasions when it will become necessary for us to provide services that go beyond those detailed in the proposal. Additional services may be required because of;

- 5.1 Changes in the scope or timing of the project initiated by you or your other professional advisors.
- 5.2 Delay, poor performance or insolvency of your other professional advisors or contractors.
- 5.3 In such circumstances we shall be entitled to be paid additional fees as detailed in our Proposal or, in the absence of such an agreement, a fee calculated on a standard daily / hourly basis as set out in our Proposal.

6. OUR LIABILITY

- 6.1 We have an interest in limiting the personal liability and exposure to litigation of directors, partners, employees and associates. You therefore agree that any claim of any kind arising out of or in connection with the Contract shall only be brought against ourselves (M3 Consultancy LLP) and that no claims in respect of the Contract will be brought personally against any of our directors, partners, employees, associates or other M3 Housing Ltd companies or subsidiaries involved in the provision of the Services.
- 6.2 Further you agree that our maximum aggregate liability in respect of breach of contract or breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be limited in total to the lesser of £500,000 or a sum equivalent to ten times the remuneration payable to us as specified in the Proposal.
- 6.3 As well as ourselves, you may have appointed others (for example professional advisors or contractors) in connection with the project. In these circumstances, our aggregate liability to you in respect of breach of contract or breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be limited to that proportion of the loss or damage (including interest and costs) suffered by you which is attributable to us having regard to the contribution to such loss and damage by any other person. You agree that this will remain the position, even if you have agreed a limitation of liability with any of your other advisors so that consequently you may not be able to recover a part of any loss for which they might have otherwise been liable.
- 6.4 Any claim for breach of contract, breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be brought against us within six years of the act or omission alleged to have caused the loss in question. But in any event be notified to us at the earliest opportunity.
- 6.5 You agree that the provisions of this section "Our Liability" shall not be affected by the termination of our appointment (whether or not pursuant to the section "Termination and/or Suspension") and that the provisions of this section "Our Liability" shall continue in full force and effect notwithstanding any such termination.
- 6.6 We will not take on the responsibility of duty holder or employer as defined within the Control of Asbestos at Work Regulations (CAWR) 2002.
- 6.7 This section "Our Liability" shall not apply to any liability, which we may have in relation to death or personal injury caused by our negligence.
- 6.8 Unless otherwise agreed, we shall not be responsible for the design of the Project, including the selection of any materials to be used.

7. REMUNERATION

- 7.1 Our fees, both in total and payable on an interim basis, are defined in the Proposal and we shall be entitled to submit invoices monthly unless otherwise agreed, such invoices including any additional fees payable as defined within the section 5 above. Each invoice is to be paid within 14 days of its date of issue.
- 7.2 For the avoidance of any doubt our fee is exclusive of Value Added Tax. You agree to pay the amount of Value Added Tax properly due thereon.
- 7.3 The fee shall be deemed to be for the services inclusive or exclusive of expenses and disbursements as stipulated in our proposal. You shall reimburse us, in respect of expenses that shall have been properly and reasonably incurred by us in connection with the Services. You agree that we shall have your authority to incur expenses as we deem appropriate to the Project.
- 7.4 If in good faith you dispute that any item set out in any invoice is due, you shall give notice in writing within 5 working days of the date of such invoice stating the reason for such dispute, leaving the balance of the invoice to be paid in accordance with the terms above. We shall both immediately use our best endeavours to agree the amount of any disputed item, but failing agreement the matter may be referred to adjudication and/or arbitration in accordance with sections 12 & 13.
- 7.5 Subject to section 7.4 you shall pay all invoices without deduction, set-off, abatement or counter claim.
- 7.6 We shall be entitled to be paid interest on invoices or any part thereof due and payable but remaining unpaid 14 days after the date of the invoice, interest shall be applied at 4% over Barclays Bank base rate, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 provided that, in the case of items correctly disputed by you, interest shall run only from the date when the amount of such item is agreed or settled by adjudication or arbitration.

8. TERMINATION AND/OR SUSPENSION

- 8.1 We may by giving not less than 7 working days written notice suspend or terminate the Services.
- 8.2 Both you and we shall be entitled to terminate the performance of the Services upon serving written notice on the other to that effect, if the other being in breach of its obligations hereunder in any material respect has failed within 14 days of the service of such notice to remedy such breach or breaches.
- 8.3 Both you and we shall be entitled to terminate the Contract immediately in the event that: distress or execution is levied or threatened upon any of the

other's property; any judgement against the other remains unsatisfied for more than 14 days; you (being an individual) become bankrupt or unable to pay your debts or seek an arrangement with your creditors; you (being a company) have an administrator appointed, or a receiver, or manager, or administrative receiver is appointed of you or any of your assets, or you enter into liquidation, or propose to make any voluntary arrangement with your creditors; any petition is presented, or any resolution passed, or any steps or proceedings taken which may lead to any of the foregoing occurrences; the other is or is deemed to be insolvent or unable to pay its debts; the other ceases to carry on business.

- 8.4 We shall be entitled to suspend performance of the Services in the event that you fail to pay any invoice within 14 days in accordance with section 7.1 (or in the case of items disputed in good faith within 14 days after the date when we agree with you the amount of such item or the amount is settled by adjudication or arbitration).
- 8.5 Termination of our appointment under the Contract, however it may arise, shall not affect the rights and remedies of either of us in relation to any default of the other prior to such termination.
- 8.6 If the performance of the Services has been suspended or terminated, then;
- a) We shall be entitled to be paid (and we shall invoice you accordingly) for all outstanding fees due to us for the performance of the Services, whether performed or not, all expenses and other disbursements incurred and VAT due.
 - b) You shall compensate us for all subsequent and consequential expenses and disbursements incurred or properly to be incurred in consequence of suspension or termination (including but not limited to the cost of engaging, re-deploying or dismissing staff).
- 8.7 If the performance of the Services has been suspended or terminated by you under sections 8.2 or 8.3, then we shall give you copies of any drawings or documents for and in relation to the Project prepared by us or on our behalf or in our possession as necessary to minimise any disturbance to the Project.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 The copyright in all information provided by us in connection with the Services belongs to us. However, subject to the payment of our fees, we will allow you to use them by granting to you an irrevocable, non-exclusive royalty free license to copy and use the documents for all purposes related to the Project. We shall not be liable for any use of such documents for any purpose other than that for which they were prepared.
- 9.2 You agree not to provide to any third party any material provided to you by us as part of the Services, without our specific consent.

10. ASSIGNMENT AND SUB-CONTRACTING

- 10.1 Neither you nor we may assign or transfer all or any part of the Contract without the written consent of the other. We reserve the right to engage appropriate human resources to undertake this Project, whether directly employed or not.

11. COMMUNICATIONS

- 11.1 Any notices to be given under the Contract shall be given in writing and delivered by receipted hand delivery, or recorded delivery post, or fax, or e-mail to the address of the party as stated in the Proposal.

12. RESOLVING PROBLEMS AND COMPLAINTS

- 12.1 It is our policy to investigate complaints in relation to our conduct of a matter fully and promptly. We will use all reasonable endeavours to resolve complaints by negotiation or other non-adversarial means such as mediation, this being subject to either side's right to have any dispute resolved by adjudication in accordance with section 13 below.
- 12.2 In this regard we will consider with you whether it would be appropriate to refer the dispute to the Arbitration Scheme operated by the Chartered Institute of Arbitrators.

13. ADJUDICATION

- 13.1 If the Housing Grants Construction and Regeneration Act 1996 applies to the contract, the Scheme for Construction Contracts (England and Wales) Regulations 1998 shall also apply save for the following amendments:

- a) The final date for payment of any sum that becomes due under the Contract shall be 14 days from the date of our invoice.
- b) The adjudicator nominating body shall be the Royal Institution of Chartered Surveyors.
- c) Any notice of adjudication to be served upon us shall be served on:

Chief Executive
M3 Consultancy LLP
5 Commonside East
Mitcham
Surrey CR4 2QA

14. GOVERNING LAW

- 14.1 The Contract and these terms of business are governed by English Law.