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## STANDARD TERMS AND CONDITIONS OF ENGAGEMENT

### All clauses to apply unless otherwise agreed in writing

#### 1. Obligations

- 1.01. Slater Property Consultancy Limited (hereinafter referred as 'SPC Ltd') shall perform the services with reasonable skill, care and diligence, but;
- No liability shall attach to SPC Ltd in respect of the services except such liability as ought to be covered by the Professional Indemnity Insurance referred to as follows: SPC Ltd undertakes to have and keep in effect both Professional Indemnity Insurance in the sum of £1,000,000 and Public Liability Insurance (for any one claim) in the sum of £5,000,000.
  - Such liability shall be limited to these sums.

#### 2. Payment

- 2.01. SPC Ltd shall be entitled to submit a fee invoice:
- Monthly, or at the conclusion of agreed service stages, whichever is the more frequent;
  - At suspension or termination of the services;
  - When work proves to be abortive, in respect of that work;
  - At conclusion of the services.
- 2.02. Payments invoiced shall be calculated by reference to:
- Agreed hourly or unit rates;
  - Agreed service stage payments or lump sums; or
  - A fair proportion of agreed service stage payments or lump sums.
- 2.03. The client shall pay SPC Ltd for the performance of the services the fees and charges in such instalments as are set out in the Agreement for Appointment or letter of instruction. All fees and charges under the Agreement are exclusive of Value Added Tax (VAT) which if due shall be paid concurrently in addition.
- 2.04. Any fee proposal/confirmation of instructions/time charge and / or disbursements will increase by a minimum of 2% above inflation annually falling on each anniversary of the date of receipt of the first instruction.
- 2.05. The "due date for payment" shall be 7 (seven) days after the date of the submission of the invoice. When submitting the invoice for payment, SPC Ltd shall on each invoice confirm the basis on which the stated amount is calculated.



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- 2.06. The "final date for payment" shall be 14 (fourteen) days after the due date for payment, and payment shall be made no later than the final date for payment.
- 2.07. The client must, not later than 5 (five) days after the due date for payment, give to SPC Ltd written notice if he intends to withhold any monies stating the amount which the client proposes to withhold and the basis on which that amount is calculated. Where no such notice is given, the amount to be paid is that stated in the invoice.
- 2.08. Any amounts due to SPC Ltd under this Agreement which remain unpaid by the client after the final date for payment, shall, at the discretion of SPC Ltd, bear interest at a rate of 14% per annum calculated from the final date for payment.**
- 2.09. The client will pay to SPC Ltd the sum of £15.00 per letter sent either from SPC Ltd or any Legal Representatives to the client reminding them of any outstanding fee beyond 14 days from the "final date for payment".**
- 2.10. In the event that the client is in default over payment of amounts at the final date for payment and no notice of intention to withhold payment for such amount has been given, SPC Ltd may suspend performance of any or all of the services. This right is subject to SPC Ltd first giving the client not less than 7 (seven) days' written notice of such intention and stating the grounds for suspension. The right to suspend performance shall cease when the client makes payment of the amount due. Any such period of suspension shall be disregarded for the purpose of contractual time limits previously agreed for the completion of the services. Such suspension shall not be treated as a suspension under clause 5 below.
- 2.11. The specified fees do not include, and SPC Ltd shall be entitled to reimbursement of expenditure comprising:
- Fees, other charges and disbursements of any main or other contractor, supplier, clerk of works, other surveyor, professional or consultant engaged with the prior consent of the client whether directly or as agent for the client, and whether or not working under the direction or supervision of SPC Ltd;
  - The reasonable cost of producing or reproducing documents, drawings, maps, photographic and other records and presentation materials;
  - Reasonable travel and hotel expenses (including mileage for car travel);
  - Unit charges (but not standing charges) for communications by telephone, telex, facsimile transmission, post, messenger, etc;
  - Fees and advertising costs in connection with applications for local government consents such as planning permission and building regulation consent;
  - Any other fees or expenses, which the client has authorised SPC Ltd in writing to incur.
- 2.12. On written demand by the client, SPC Ltd shall provide as appropriate:
- Time sheets where the fee is based on time charges:
  - Original receipts or other appropriate evidence of expenses or disbursement.
- 2.13. All fees and disbursements are exclusive of VAT.



2.14. SPC Ltd shall notify the client in writing as soon as it becomes reasonably apparent that any work additional to the subject of Agreement will be required.

2.15. Where SPC Ltd are involved in additional work because of;

- Changes in the scope of works; and/or
- Changes in the programme of the works; and/or
- Changes instructed to the services; and/or
- The commencement of adjudication, arbitration or litigation, the client shall pay to SPC Ltd additional fees calculated (unless otherwise agreed) on the time charge basis set out in the Agreement for Appointment.

### 3. Professional Indemnity Insurance (PII)

3.01. SPC Ltd is required to comply with the regulations of The Royal Institution of Chartered Surveyors in respect of the maintenance of Professional Indemnity Insurance. SPC Ltd shall use reasonable endeavours to take out and maintain such Professional Indemnity Insurance above RICS limits, provided that it is available at commercially reasonable rates, as defined by reference to an amount and for a period in the Agreement for Appointment. Such insurance shall be with an insurer who is listed for this purpose by the RICS.

### 4. Communications

4.01. If the client's representative has ceased for any reason to act as such, the client shall promptly inform SPC Ltd in writing of the identity of the new representative.

4.02. All the client's instructions to SPC Ltd with regard to the services (including those to vary, add to or suspend the services) shall be given to SPC Ltd in writing, or, if given orally, confirmed in writing within 7 (seven) days.

4.03. The client shall promptly convey to SPC Ltd any decision or information held by the client necessary for the proper performance of the services.

4.04. Any formal notice shall be deemed to have been duly given if mailed by registered post to the representative at the address specified in the Agreement for Appointment.

### 5. Suspension & Termination

5.01. The client may suspend performance by SPC Ltd of all or any of the services by giving 7 (seven) days' notice. If the services have been suspended for a period of more than 12 (twelve) months, either party may terminate the Agreement by giving written notice to that effect.

5.02. The client may terminate the appointment of SPC Ltd under this Agreement by giving 7 (seven) days' written notice to SPC Ltd.

5.03. Where the services have been suspended by the client and the Agreement has not been terminated, the client may, by giving reasonable notice to SPC Ltd, require SPC Ltd to resume the performance of the



services.

5.04. If the client materially breaches their obligations under this Agreement, SPC Ltd may serve on the client a notice specifying the breach and requiring its remedy within 28 (twenty-eight) days, and if the client thereafter fails to remedy that breach within that period, SPC Ltd may terminate this Agreement given written notice to the client.

5.05. If either party:

- Commits an act of bankruptcy or has a receiving or administrative order made against it; and/or
- Goes into liquidation; and/or
- Becomes insolvent; and/or
- Makes any arrangements with its creditors;

The other may suspend performance of the services or may terminate the appointment by giving written notice.

5.06. These rights are in addition to those granted to SPC Ltd under Clause 2 above.

## 6. Consequences of Suspension and Termination

6.01. If performance of the services has been suspended under clause 2 or clause 5 above, or the Agreement has been terminated pursuant to the provisions of clause 5 above:

- (a). the client shall pay SPC Ltd any instalments of the fees due to SPC Ltd up to the date of suspension or termination together with a fair and reasonable proportion of the next following instalment commensurate with the services performed by SPC Ltd.
- (b). Unless the Agreement has been terminated by the client because of material breach by SPC Ltd, the client shall pay SPC Ltd within 14 (fourteen) days of written demand the consequential costs necessarily incurred as a result of the suspension or termination.

6.02. Termination of the Agreement shall be without prejudice to the rights and remedies of the parties.

## 7. Complaints

7.01. In the event that the client has a complaint in respect of the performance of SPC Ltd's services under this Agreement, without prejudice to any other remedy available under the Agreement, he or she shall be entitled to have access to the complaints handling procedure maintained by SPC Ltd, written copies of which are available on request.

## 8. Copyright

8.01. Unless otherwise agreed in writing, SPC Ltd shall retain copyright in and ownership of, all specifications, or other documents, drawings, maps, photographic and other records, models and representation materials prepared by SPC Ltd.

8.02. SPC Ltd may publish or join in publishing any description or illustration of the works.



## 9. Assignment

- 9.01. The client may assign or transfer all (but not part) of this Agreement upon giving written notice to SPC Ltd to that effect.
- 9.02. SPC Ltd may assign or transfer all or part of this Agreement but only with the prior written consent of the client which shall not be unreasonably withheld.

## 10. Waiver

- 10.01. No acquiescence in a breach shown by either the client or SPC Ltd shall prevent the other subsequently insisting upon his or her rights and remedies under this Agreement.

## 11. Disputes

- 11.01. If a dispute arises out of this Agreement, the client and SPC Ltd shall attempt to reach a settlement in good faith and the client shall acknowledge that if the dispute relates to or impacts on fees owed to SPC Ltd, the undisputed or unaffected balance shall be promptly paid.
- 11.02. If the dispute is not thus resolved, either the client or SPC Ltd may at anytime give notice to the other that he or she wishes to refer the dispute to an adjudicator. The person who is to act as the adjudicator shall be agreed between the client and SPC Ltd, and failing agreement shall be a person appointed by the President or Vice-President of the Royal Institution of Chartered Surveyors within 5 (five) days of such notice having been given. The referring party shall refer the details of the dispute in writing to the adjudicator within 7 (seven) days of such notice having been given.
- 11.03. The adjudication shall be conducted in accordance with the Construction Industry Council Model Adjudication Procedures current at the time of entering into this Agreement. Clause 30 of the Construction Industry Council Model Adjudication Procedures shall be amended to add the following sentence:
- “No party shall be entitled to raise any right of set-off, counterclaim and/or abatement in connection with any enforcement proceedings”.
- 11.04. The adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law.
- 11.05. The adjudicator shall reach a decision:
- (a). within 28 (twenty-eight) days of the referral of the dispute to the adjudicator; or
  - (b). within 42 (forty-two) days of the referral of the dispute to the adjudicator if the referring party so consents; or
  - (c). in a period exceeding 28 (twenty-eight) days from referral of the dispute to the adjudicator as the client and SPC Ltd may agree after such a referral.
- 11.06. The adjudicator is not liable for anything he or she does or omits to do so in the discharge or purported discharge of his or her functions as adjudicator unless the act or omission is in bad faith. Any employee or agent of the adjudicator shall be similarly protected from liability.
- 11.07. The decision of the adjudicator shall, subject to the provisions of clauses 11.08 and 11.09 below, be binding until the dispute is finally determined by arbitration.



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- 11.08. The legal costs incurred by SPC Ltd will be repaid by the client on the release of the Adjudicator's decision.
- 11.09. The Adjudicator has the right to determine who will be responsible for his costs.
- 11.10. The client and SPC Ltd may agree to accept the decision of the adjudicator as finally determining the dispute.
- 11.11. If the client or SPC Ltd is dissatisfied with the decision of the adjudicator, then:
- (a). the dispute may be determined by agreement between the parties; or
  - (b). the dispute may be referred at the instance of either of the parties to be determined by an arbitrator in accordance with clause 12 below.
- 11.12. The client agrees not to commence any proceedings in litigation or arbitration against SPC Ltd arising out of, under, or in connection with, any adjudication award until the award has been finally determined by legal proceedings by arbitration or by agreement between the parties, and/or until the work subject to the project in connection with which SPC Ltd is appointed shall be completed, whichever is the later, and irrespective of whether the project is completed by the original contractor or any subsequent contractor or by the client.
- 11.13. Enforcement of awards
- It is hereby agreed that:
- (a). non-payment of any award without cause will constitute a separate breach of the contract contained herein; and
  - (b). any award may be enforced as a judgement.
- 11.14. It is hereby agreed that the provisions of the Construction Act 1996 have been incorporated into contracts effected by simple exchange of letters and may be incorporated by reference in telephone conversations to the use by the parties or a standard form of building contract.

## 12. Arbitration

- 12.01. Any dispute under this Agreement including those where adjudication would not apply, may be referred at the instance of either of the parties to be determined by an arbitrator. The person who is to act as an arbitrator shall be agreed between the parties within 28 (twenty-eight) days of the one giving written notice of his or her wish to refer the decision to an arbitrator or, failing agreement at the end of that period, shall be a person appointed by the President or Vice-President of the Chartered Institute of Arbitrators at the instance of either party. The arbitration shall be conducted in accordance with the Construction Industry Model Arbitration Rules current at the time of entering into this Agreement.

## 13. Liability

- 13.01. The liability of SPC Ltd shall be limited to the amount of the Professional Indemnity Insurance required by virtue of clauses 1 and 3 above.
- 13.02. SPC Ltd owes no liability to any third party not named in the Agreement for Appointment.



## 14. Notice

14.01. Any notice to be given under this Agreement shall be in writing and delivered by hand or sent by recorded delivery post to the party at the address shown in the Agreement or to such an address as the other party may have specified from time to time by written notice to the other.

End.

