

Terms of Business

1. Introduction and Definitions

- 1.1. These are the standard terms of retainer of CPC Project Services Limited (incorporated in England and Wales with company registration number 15334213 and having its registered office address at 100 Wood Street, London, EC2V 7AN) and any of its group companies from time to time (including CPC Systems Limited, CPC Consultancy Limited and CPC Project Services Limited (Ireland)) ("**Group Company**"). Any reference to CPC in these Terms of Business shall apply to each Group Company, and such other group companies from time to time. Please note that these Terms of Business contain important provisions which, among other things, limit our liability. These standard terms of retainer may not be varied unless agreed in writing and signed by a director of CPC Project Services Limited.
- 1.2. The following definitions are used in these Terms of Business:

"Engagement Letter"	means the letter and attachments (including these Terms of Business) sent to you which sets out the basis of our contract with you and which constitutes the entire agreement between us;
"Engagement"	means the services which we offer to provide by the Engagement Letter;
"Person"	includes a corporate or unincorporated body, partnership, or limited liability partnership;
"Staff Member"	means any consultant, employee, officer, representative or agent of CPC; and
"Tax"	means all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the United Kingdom or any other jurisdiction, and any penalty, fine, surcharge, interest, charges or costs relating thereto.
- 1.3. These Terms of Business replace any previous terms of business that apply to the Engagement and shall apply to any future engagements carried out by us on your behalf unless varied or replaced. We are not bound by any terms of business you have sent us prior to your acceptance of the Engagement Letter, unless specifically agreed by us in writing. No change in these Terms of Business will be effective unless agreed by us in writing.
- 1.4. CPC Project Services Limited (together with its Group Companies) are referred to in these Terms of Business as "**CPC**", "**us**", "**we**", or "**our**" which, where appropriate, includes our successor and predecessor firms and our staff members. References in these Terms of Business to "**you**" or "**your**" are to the persons or organisations who are our clients for the Engagement.

2. Professional Rules and Practice Guidelines

- 2.1. We will observe and act in accordance with the bye-laws, regulations and code of ethics of the Association for Project Management (APM) and will accept instructions to act for you on this basis.

3. Fees

- 3.1. Unless otherwise stated in the Engagement Letter, our fees are based upon the time required by our staff members to complete the Engagement, including travelling time. Time is charged at hourly rates that vary to reflect the degree of skill, responsibility and experience of the relevant individual, as well as the nature, complexity and urgency of the work involved. Hourly charge-out rates are modified from time to time in accordance with prevailing market conditions.
- 3.2. Whenever appropriate, we will agree a fee budget with you in advance of commencing work. The budget will be based on the assumption that we have timely access to the information and personnel that are required to complete the Engagement in a cost-effective manner and in accordance with the relevant deadlines. We will advise you of delays or unexpected problems as they arise and will estimate their effect on the fee budget (which, in the case of client delay requiring urgent action, may not be prior to work being undertaken). Provision of a fee budget does not indicate a commitment to carry out engagements for a fixed fee or within a fixed timeframe.

4. Expenses

- 4.1. We may need to incur expenses on your behalf including fees of other professionals, travel, accommodation and subsistence whilst travelling. We shall endeavour to alert you in advance if we anticipate that any particular expense is likely to prove onerous, having regard to any estimate previously given. You will reimburse us for all payments which we properly make to third parties. Where we invoice you in Pounds Sterling for expenses we incur in foreign currency we reserve the right to ask you to reimburse us for any loss resulting from changes in currency exchange rates.

5. Invoicing

- 5.1. Unless otherwise stated in the Engagement Letter, invoices for fees and Engagement related expenses necessarily incurred on your behalf will normally be rendered monthly as work progresses and will be subject to VAT if applicable. We reserve the right to request prepayment of fees and Engagement related expenses.
- 5.2. Invoices are due for payment on presentation in full, in Pounds Sterling and without any deduction, set off, counterclaim or withholding. You shall make all payments due to us without withholding or deduction of, or in respect of, any Tax unless required by law. If any such withholding or deduction is required, you shall, when making the payment to which the withholding or deduction relates, pay to us such additional amount as will ensure that we receive the same total amount that we would have received if no such withholding or deduction had been required.
- 5.3. We reserve the right to charge interest on any outstanding balance at the rate of 8% above the bank of England Base rate for business to business transactions in accordance with the *Late Payment of Commercial Debts (Interest) Act 1998* until the date of settlement.
- 5.4. If you disagree with, or have queries on, an invoice you are required to notify us in writing within twenty one days from the invoice date, after which time you are deemed to have agreed the amount (including disbursements).
- 5.5. Except in so far as we are not permitted to do so by law or professional guidelines, we reserve the right to exercise a lien over all funds, documents and records in our possession relating to all Engagements for you until all outstanding fees and disbursements are paid in full.
- 5.6. If you do not pay our invoices within 30 days of issue or do not (after request in writing) pay to us any sums on account of fees or third party disbursements (without prejudice to any other remedies we may have) we may cease work on the Engagement until such payment is received.

6. Value Added Tax (VAT)

- 6.1. The VAT registration number for CPC Project Services Limited is 392670569.
- 6.2. The place of supply of legal services to a business will be deemed to be where you reside. Unless the circumstances below apply, VAT is chargeable on, and will be added to fees and chargeable disbursements at the applicable rate as follows:
 - 6.2.1. generally, if you reside outside the UK but within the EC, United Kingdom VAT will not apply and your invoices will be subject to the reverse charge procedure. For this to be the case, you will need to provide us with evidence of your commercial activities within the EC and your local VAT number. However, exemptions may apply requiring VAT to be applied.
 - 6.2.2. if you are based outside the EC generally VAT will not apply and the reverse charge procedure will not apply. For this to be the case, you will need to provide us with evidence of your commercial activities outside the EC. You may however be subject to local taxes.
 - 6.2.3. if you do not have a valid VAT registration number and/or we do not consider that the evidence you supply satisfied the requirements that you are engaged in commercial activities and that our services are supplied for a business purpose we will have to apply UK VAT to our invoices.
- 6.3. The place of supply of our legal services to a consumer will be in the United Kingdom. Thus, unless an exemption applies, VAT is chargeable on and will be added to fees and chargeable disbursements, at the applicable rate.
- 6.4. If you believe we are wrongly charging you with VAT on fees or disbursements, you must tell us why VAT does not apply or (as the case may be) chargeable at a different rate within three months from the date of our invoice for those fees or disbursements. Please note that different provisions apply to a transaction relating to land, and these shall be covered by specific terms in correspondence with you.

7. Groups

- 7.1. Where our appointment is by a holding company on behalf of a group, the holding company confirms that these Terms of Business apply to all subsidiaries and entities to which we have been appointed.
- 7.2. Whilst fee invoices may be addressed to either the parent company or the group company or entity, both parties remain jointly and severally liable for the debt until it is settled.
- 7.3. For the purpose of this agreement "Holding Company" and "Subsidiary Company" shall have the meanings ascribed to them in Section 1159 of the *Companies Act 2006*.

8. Personnel

- 8.1. We reserve the right to determine which of our staff members are allocated to an Engagement and, where named individuals are unavailable; we will supply substitutes of equivalent quality and experience. With your agreement, we may also use third parties in performing our services.

9. Non Solicitation of Personnel

- 9.1. You will not solicit, or endeavour to solicit, in any way the services of any staff member with whom you have had dealings in connection with the Engagement during the 12 months immediately prior to your approach.
- 9.2. This undertaking shall not apply in respect of any staff member who without having been previously approached directly or indirectly by you responds to an advertisement placed by you or on your behalf.
- 9.3. Should you breach the terms of this undertaking and employ or engage a staff member (without our prior written consent), we reserve the right to charge you a fee of 20% of the staff member's annual earnings from us.

10. Client responsibilities

- 10.1. It is your responsibility to provide us with complete, accurate and timely information necessary to our Engagement. We will not be responsible for any consequences that may arise from your failure to do so and such failures may result in additional fees.
- 10.2. The reports, letters, information and advice that we provide to you are given in confidence and are provided for your information. They should not be used for any other purpose or referred to in any other document or made available to any other party without our prior written permission. The only exceptions to this requirement are others within your own organisation, your professional advisors acting in such capacity or as required by a court, regulatory body or governmental agency of competent jurisdiction.
- 10.3. Oral comments made in discussions with you about reports, letters, information and advice that we provide will not have any greater significance than explanations or other material contained therein and reliance may only be placed on written information and comments.
- 10.4. Where it is envisaged that reports, letters, information or advice given by us to you will be provided to, or used by, a third party we reserve the right to agree with you in advance terms regarding such provision or to require the third party to enter into a direct relationship with us. Unless otherwise agreed in writing, we recognise no responsibility whatsoever other than that owed to you as at the date on which our report or other advice is given. Accordingly, none of these terms, or the terms of any such document, is enforceable under the *Contract (Rights of Third Parties) Act 1999* by a person who is not a party to it save for circumstances set out in clause 19.5.
- 10.5. You will agree the terms under which we provide any opinions, certificates or reports to third parties with us in advance and will not commit us to third parties without our prior written consent. If we become liable to any third party in respect of any opinion, certificate or report given by us which is inaccurate or misleading as a direct result of your failure to supply us with complete, accurate and timely information that could reasonably be expected to have a material impact on our opinions, certificates or reports to third parties, then you agree to indemnify us against any liability which we may have arising from such failure to supply information.
- 10.6. Where information that is, or may be, relevant to our work has been provided to someone within CPC (other than those specific named individuals who are carrying out CPC's responsibilities for that work), you accept that knowledge of that information will not automatically be imputed to those individuals.

11. Instructions

- 11.1. You authorise us to act from time to time on instructions given in any manner (including but not limited to verbal and electronic instructions) in circumstances where we reasonably believe those instructions to have emanated from you or any person with authority to act on your behalf and you undertake on demand by us to confirm such verbal instructions in writing.

12. Conflict and Confidentiality

- 12.1. We confirm that where you give us confidential information which is expressly marked as "confidential" we shall at all times keep it confidential, except as required by law or as provided for in regulatory, ethical or other professional pronouncements applicable to our Engagement.
- 12.2. You agree that we do not have a duty to disclose any matter which comes to our notice in the course of our business if doing so would constitute a breach of duty owed to other persons.

13. Quality control

- 13.1. As part of our ongoing commitment to providing a quality service, our files are periodically reviewed by an independent regulatory or quality control body. These reviewers are highly experienced and professional people and are bound by the same rules for confidentiality as our partners and staff.

14. File Retention

- 14.1. It is our normal practice to retain documents relating to client engagements for seven (7) years after the end of the relevant engagement (though there are exceptions where records may be required to be kept longer for legal reasons). Thereafter, unless separate arrangements have been made, we will destroy the documents or papers without reference to you.

15. Intellectual Property Rights

- 15.1. We retain all copyright and other intellectual property rights in everything developed by us either before or during the course of the Engagement, including rights in all reports, written advice or other materials provided by us.

16. Electronic Communications

- 16.1. You understand and acknowledge that the electronic transmission of information on the internet or otherwise has inherent risks and that such communications may become lost, delayed, intercepted, corrupted or be otherwise altered, rendered incomplete or fail to be delivered.
- 16.2. Despite the inherent risks (and particularly the risk of access by unauthorised parties) you authorise us to communicate with you electronically all matters related to the Engagement, other than those that you specifically request that we communicate in some other manner. You also authorise us to communicate to all third parties with whom we need to communicate all matters related to the Engagement, other than those that you specifically request that we communicate in some other manner.
- 16.3. We shall have no responsibility or liability to you or any third party on any basis (other than our bad faith or willful default) in respect of any error, omission, claim or loss arising from or in connection with the communication of information to you or a third party electronically, nor any reliance upon such information, unless you or they would have been entitled to rely on that information under these Terms of Business, if such information had been provided in writing.
- 16.4. Our systems are for business use. We intercept and monitor communications through our systems to ensure compliance with our internal rules to ensure compliance with laws and regulations and to investigate matters brought to our attention. You consent to our intercepting and monitoring electronic communications between you and those using our systems.

17. Data Protection and Privacy Policy

- 17.1. To enable us to discharge the services agreed under our engagement, and for other related purposes including updating and enhancing client records, analysis for management purposes and statutory returns, crime prevention and legal and regulatory compliance, we may obtain, use, process and disclose personal data about you, your companies, its officers and employees. We confirm when processing data on your behalf that we will comply with the relevant provisions of the *Data Protection Act 2018*. A copy of our Data Protection Policy can be found on our website: <https://cpcprojectservices.com/gdpr-policy/>. Our Privacy Policy can also be found here: <https://cpcprojectservices.com/privacy-policy/>.

18. Complaints and Dispute Resolution

- 18.1. If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with any aspect of the service you are receiving, please let us know by contacting the Engagement Partner or the company's Managing Partner at the address set out at clause 1.1 or such other address as we may notify you in writing from time to time.
- 18.2. We undertake to look into any complaint carefully and promptly. In the event that you are not satisfied with the resolution of any complaint you may raise with us, then you have the right to report the matter to the APM.

19. Liability

- 19.1. Subject always to clauses 19.9 to 19.12, you agree that our liability in respect of any and all causes of action which may arise from or which are in any way connected with our engagement on a matter is strictly limited to £5 million which limit shall apply to all monetary amounts claimed against us including contractual and statutory interest and costs.
- 19.2. The limit of our liability set out in clause 19.1 above applies in respect of the entirety of our engagement on a matter and thus, for the avoidance of doubt:

- 19.2.1. where we are instructed jointly on a matter by you and other clients each for your own share then a single limit of £5 million will apply to be shared between you and those other clients;
- 19.2.2. where you have engaged us on behalf of yourself and on behalf of other individuals or organisations, a single limit of £5 million will apply to be shared and those other individuals or organisations;
- 19.2.3. where we are in breach of our duty to you in more than one respect on a matter a single limit of £5 million shall apply in respect of all such breaches.
- 19.3. Where you seek to make us liable in conjunction with any other individual, partnership or corporate entity, our liability is limited to our fair proportion of the sum for which all such parties are liable to you which in any event is subject to the limitation of our liability of £5 million.
- 19.4. In no circumstances shall we be liable for any indirect or consequential loss, loss of profit, loss of goodwill, loss of opportunity, damage (including unliquidated damages), costs or expenses of any nature incurred or suffered by you, including, without limitation, any economic loss, loss of turnover or business contracts. Nor shall we be liable for loss, damage, costs or other expenses of any nature incurred or suffered by you or an individual or organisation you represent arising from compliance by us with any statutory obligations placed upon us.
- 19.5. CPC will have sole responsibility for the work done for you and for any act or omission in the course of that work. No individual partner or employee or consultant of CPC shall have any liability to you and you agree to forbear from taking proceedings against any partner or employee or consultant of CPC save where his or her conduct amounts to fraud. You and we intend that this clause is for the benefit of, and shall be enforceable by, the partners and employees and consultants of CPC under the *Contracts (Rights against Third Parties) Act 1999*.
- 19.6. Without derogation from your agreement to forbear from suit, this limitation of our liability is for the benefit of every partner and employee and consultant of CPC, past, present and future and every partner and employee and consultant of any successor to CPC and each of those persons shall be entitled to assert this limitation of liability in defence of any claim against him or her and no such person shall be liable for any sum in addition to any sum for which CPC is found to be liable, save in the case of fraud by such person.
- 19.7. The limitation of our liability provided in this clause applies to the extent permitted by law or regulation or professional rules to which we are subject. We cannot, for example, limit our liability in respect of death or personal injury.
- 19.8. If any part of this clause 19 is found by a court or tribunal to be void or ineffective on the grounds that it is unreasonable or does not accord with a legal or regulatory provision to which we are subject or on any other grounds, the remaining parts of this clause and the provisions of these terms shall continue to be effective.

Liability for Cladding Claims and Fire Safety Claims

- 19.9. For the purposes of this clause 19.9 and 19.10, “**Cladding Claims**” shall mean any claim or part of a claim, circumstance, loss, liability, cost, expense or defence costs incurred as a result of any act of neglect or error or omission or negligence in the conduct by or on behalf of CPC with respect to the professional services and duties arising directly indirectly or in any way connected with the use of any facade material (including but not limited to cladding, Insulation, wall panelling, cavity barriers, fire stopping) that does not comply with the relevant regulatory regime.
- 19.10. Notwithstanding anything contained to the contrary in these Terms of Business the following specific terms shall apply to Cladding Claims:
- 19.10.1. CPC’s liability for Cladding Claims will be limited to actual direct loss costs and expenses incurred in respect of rectifying any part of the works directly affected. All other loss cost expense or defence costs arising directly or indirectly from Cladding Claims are excluded including, for the avoidance of doubt, loss of profits, loss of use, loss of production, loss of contracts;
- 19.10.2. any loss cost or expense incurred by CPC which is likely to exceed 50% of any retention for such Cladding Claims will only be incurred with the prior consent of CPC’s insurers; and
- 19.10.3. CPC’s total liability for Cladding Claims shall not exceed in the aggregate (inclusive of defence costs) £10,000,000 which shall not be reinstated.
- 19.11. For the purposes of clauses 19.11 and 19.12, “**Fire Safety Claims**” shall mean any claim or part of a claim, circumstance, loss, liability, cost, expense or defence costs incurred as a result of any act of neglect or error or omission or negligence in the conduct by or on behalf of CPC with respect to the professional services and duties arising directly indirectly or in any way connected with fire safety.
- 19.12. Notwithstanding anything contained in these Terms of Business the following specific terms shall apply to Fire Safety Claims:
- 19.12.1. CPC’s liability for Fire Safety Claims will be limited to actual direct loss costs and expenses incurred in

respect of rectifying any part of the works directly affected. All other loss cost expense or defence costs arising directly or indirectly from Fire Safety Claims are excluded including, for the avoidance of doubt, loss of profits, loss of use, loss of production, loss of contracts, liquidated damages or for any cost of decanting or rehousing;

- 19.12.2. any loss, cost or expense incurred by CPC which CPC reasonably believes is likely to exceed 50% of any retention for such Fire Safety Claims will only be incurred with the prior consent of CPC's insurers; and
- 19.12.3. CPC's total liability for Fire Safety Claims shall not exceed in the aggregate (inclusive of defence costs) £10,000,000 which shall not be reinstated.

20. Responsibility to Third Parties

- 20.1. Save were imposed by law, we do not accept any responsibilities to third parties in relation to the matter on which we are engaged by you. To the extent that the law nevertheless imposes on us such responsibility to any third parties, our liability to them shall be limited in accordance with clause 19 above and a single limit as set out in that clause shall be shared between such third parties and you. If you divulge our advice to you to any third party, you should ensure that such third party understands that we accept no responsibility or liability to such third party and that such third party should not proceed as though such advice was given to them by us. It is incumbent upon such third party to obtain their own advice. We do not accept liability to any third party unless we have been retained by that third party and there is an engagement letter setting out the terms of our retainer.

21. Our liability for other Advisers retained by us on your behalf

- 21.1. Where we engage other professionals to give specialist advice or assistance, we will endeavour to select them carefully but we shall not be legally liable for any act or omission by them.

22. Successor Company

- 22.1. If we shall merge or transfer our business to another person (a "Successor Company") then our Engagement with you shall not automatically terminate by reason of such a merger or transfer. You agree that the Successor Company is automatically appointed by you so that continuity of service can be provided to you. Both the Successor Company and you may rely on the Engagement Letter as setting out the continuing terms of the Engagement. If such transfer requires some official action by you then you will take such steps as are necessary to enable continuity of service, for example, by the appointment of the Successor Company as your planning advisors. This paragraph does not in any way limit your termination rights as set out in clause 23 (*Termination*).

23. Termination

- 23.1. Unless otherwise agreed, the Engagement, with the exception of any Engagement where termination rules are prescribed by legislation, may be terminated by us on reasonable written notice to you. Unless otherwise stated in the Engagement Letter, upon termination of the Engagement we will be entitled to payment for the work carried out by us up to the date of termination, less any payments already received and we will render an invoice for this work to the extent not already invoiced for this Engagement under the terms of the Engagement Letter.

24. Invalidity

- 24.1. In the event that any part of these Terms of Business is held to be invalid, the remainder of these Terms of Business will continue in full force and effect.

25. Governing Law and Jurisdiction

- 25.1. This agreement shall be construed and interpreted in accordance with English law and you agree to submit to the exclusive jurisdiction of the Courts of England and Wales subject to our sole right to institute proceedings in any other court of competent jurisdiction.

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