

CORNWALL BUILDING CONTROL LTD TERMS AND CONDITIONS FOR THE PROVISION OF APPROVED INSPECTOR SERVICES

Definitions

In these Conditions the following words and expressions shall have the following meanings:

- “Client”** the company, firm or individual instructing Cornwall Building Control Ltd to act as Approved Inspector for the project;
- “Conditions”** the standard Conditions and conditions of provision of Services set out in this document and conditions agreed in writing between Cornwall Building Control Ltd and the Client.
- “Project”** the work described in the Initial Notice
- "CBC Ltd"** Cornwall Building Control Ltd (Company Number 8121704) whose registered office is located at Units 13 & 14 Penwith Business Centre, Long Rock, Penzance, Cornwall, TR20 9HL.

Introduction

- 1.1. The Approved Inspector shall provide the services with reasonable skill, care and diligence and in accordance with the Construction Industry Council's Code of Conduct for Approved Inspectors.

Clients obligations

- 2.1. The Client shall supply such information to the Approved Inspector at such times as is reasonably required for the delivery of the services.
- 2.2. The Client shall notify the Approved Inspector in writing of any agent appointed to act on behalf of the Client and of any change or dismissal of the agent.
- 2.3. The Client shall notify the Approved Inspector in writing of any instruction to vary the services.
- 2.4. The Client shall make available during normal working hours proper access to the site for the Approved Inspector or his appointed Agent or servant in order to carry out inspections of work.

Assignment and subcontracting

- 3.1. Neither the Client or the Approved Inspector shall assign the whole or any part of this Agreement without the consent of the other in writing. Such consent shall not be unreasonably withheld.
- 3.2. The Approved Inspector shall not subcontract any part of the services without giving written notification to the Client.
- 3.3. A person or company who is not a party to this Agreement has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available apart from that act.

Payment

4.1. The Client shall pay the Approved Inspector for the performance of the services the fees and charges in such instalments as set out the Fee Proposal. All fees and charges under the Agreement are exclusive of Value Added Tax which if due shall be paid at the prevailing rate concurrently in addition.

4.2. Where the Client intends to withhold payment of any amount either stated in the Approved Inspector's invoice, the Client must give written notice to the Approved Inspector not later than 5 days before the final date for payment, stating the amount to be withheld and the grounds for withholding payment.

4.3. In the event that the Client is in default over payments of amounts at the final date for payment and no notice of intention to withhold payment from such amount has been given under Clause 4.2 above, the Approved Inspector may suspend performance of any or all of the services, and Final Certificates will not be issued. This right is subject to the Approved Inspector first giving the Client not less than 7 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 8 below.

4.4. The Approved Inspector shall notify the Client in writing as soon as it becomes reasonably apparent that any work additional to the subject of this Agreement will be required.

4.5. Where the Approved Inspector is involved in additional work because of:

Changes in the scope of the work, and/or

Changes in the program of the work, and/or

Changes instructed to the services, and/or

The commencement of adjudication, arbitration or litigation.

The Client shall pay to the Approved Inspector additional fees calculated (unless otherwise agreed) on the revised cost of the works, or at an hourly rate of £100.00 plus VAT.

Professional Indemnity Insurance

5.1. The Approved Inspector is required to comply with the guidelines issued by the Department Communities and Local Government in respect of the maintenance of professional indemnity insurance.

5.2. The Approved Inspector shall on written request of the Client provide evidence that the insurance is properly maintained.

5.3. The Approved Inspector shall immediately inform the Client if the insurance referred to in Clause 5.1 above ceases to be available.

5.4. The Scheme of current insurance cover approved by the Secretary of State is Royal Sun Alliance Insurance plc, Policy Number 14/1/00945, also referred to as "The Griffiths & Armour Scheme".

Copyright

6.1. The copyright in all documents prepared by the Approved Inspector in providing the services shall remain the property of the Approved Inspector. Subject to payment by the Client of the fees properly due to the Approved Inspector under this Agreement the Approved Inspector grants to the Client an irrevocable non-exclusive royalty free licence to copy and use the documents for any purpose related to the project.

6.2. The Approved Inspector shall not be liable for any use of the documents for any purpose other than that for which they were prepared and provided by the Approved Inspector.

Suspension and Termination

7.1. The Client may suspend performance by the Approved Inspector of all or any of the services by giving 7 days' written notice to the Approved Inspector. The Client must also give notice of cancellation of Initial Notice to the appropriate local authority and the Approved Inspector in accordance with Section 52 of the Building Act 1984.

7.2. The Client may terminate the appointment of the Approved Inspector under this agreement by giving 7 days' written notice to the Approved Inspector.

7.3. Where services have been suspended by the Client and the Agreement has not been terminated, the Client may, by giving reasonable written notice to the Approved Inspector, require the Approved Inspector to resume the performance of the services.

7.4. If the Client materially breaches its obligations under this Agreement the Approved Inspector may serve on the Client a notice specifying the breach and requiring it remedy within 28 days, and if the Client thereafter fails to remedy that breach within that period the Approved Inspector may terminate this Agreement by giving written notice to the Client.

7.5. 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 arrangement with its creditors

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

7.6. These rights are in addition to those granted to the Approved Inspector under Clause 4 above.

Consequences of suspension and termination

8.1. If performance of the services has been suspended under Clause 4 or Clause 7 above or the Agreement has been terminated pursuant to the provisions of Clause 7 above:

8.1.1. The Client shall pay the Approved Inspector any instalments of the fees due to the Approved Inspector 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 the Approved Inspector.

8.1.2. Unless the Agreement has been terminated by the Client because of a material breach by the Approved Inspector the Client shall pay the Approved Inspector within 28 days of written demand the consequential costs necessarily incurred as a result of the suspension or termination.

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

Complaints

9.1. In the event that the Client has a complaint in respect of the performance of the Approved Inspector's services under this Agreement, without prejudice to any other remedy available under this Agreement, he shall be entitled to have access to the complaints handling procedure maintained by the Approved Inspector, written copies of which should be available upon request from the Approved Inspector.

Liability

10.1. The liability of the Approved Inspector shall be limited to such sum as would be just and equitable for the Approved Inspector to pay having regard to the extent of the responsibility of the Approved Inspector for the loss or damage suffered on the basis that all other consultants and any subcontractors who have a liability shall be deemed to have provided contractual undertakings to the Client on terms no less onerous than those applying in the case of this Agreement and shall be deemed to have paid to the Client such sums as it would be just and equitable for them to pay having regard to the extent of their responsibility for such loss or damage. In assessing any liability arising from this Agreement, due regard shall be made to the limitations imposed by findings in the *Murphy v Brentwood District Council* (1989) 88 LGR 333 CA.

10.2. The liability of the Approved Inspector shall be limited to the amount of the professional indemnity insurance required by virtue of Clause 5.1 above.

10.3. No action or proceedings for any breach of this Agreement shall be commenced by either party after the expiry of the period of limitation (specified in Clause 8 above).

Notice

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

11.2. Such notice shall be deemed to have been received on the day of delivery if delivered by hand and otherwise on the next working day.

11.3. Where under this Agreement an act is required to be completed within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday, that day shall be excluded.

Schedule of Services

12.1. The Approved Inspector hereby agrees to provide the following Building Control service:
12.1.1. To issue to the Client and appropriate local authorities an Initial Notice upon receipt of a completed Agreement.

12.1.2. To allocate a suitable qualified Building Control Surveyor to the contract.

12.1.3. To carry out statutory consultations.

12.1.4. Issue a Plans Certificate upon request when the plans and details show compliance with current Building Regulations.

12.1.5. To make periodic visits to the site to advise the Contractor of opportunities to comply with Building Regulations.

12.1.6. To issue a Final Certificate to the Client and the appropriate local authority at satisfactory completion of building works.

12.2. The Client hereby agrees, as is requires for the Approved Inspector to carry out his duties, to provide

12.2.1. Copies of full working drawings in sufficient quantities as is specified, and at the appropriate time,

12.2.2. Access to the Site during working hours, and

12.2.3. The opportunity to display a site sign board if such facilities are to be provided on site.