

1. Introduction

1. When you instruct Diamond Group Limited or any of its associated companies ("the Company") these terms and conditions ("T & C's"), together with any Quotation as well as the Terms and Conditions contained on the Company's website, will comprise the terms of the contract between you and the company (the Agreement"). In the event of an inconsistency between these T & C's, the Quotation and the Terms and Conditions contained on the Company's website, the T & C's shall prevail.
2. The "Client" means any person or persons instructing us or for whom Services are or are to be provided and includes the beneficial owners, controllers, officers and employees of any such person and shall in the case of more than one person mean such persons jointly and severally and shall include the survivor or survivors of them and, in the case of individuals, shall include the heirs, personal representatives, successors and assigns of each of them and, in the case of a company or other body corporate, shall include its successors and assigns.
3. The Client is deemed to have accepted the T & C's upon the Companies subsequent receipt from the Client, or the Client's agent, of any instructions, oral or written, on the matter.

2. Obligations

1. The Company shall perform the quoted services set out in its Quotation (the "Services") exercising a reasonable level of skill, care and diligence ordinarily provided by 'others' working in the same or similar locality under the same or similar circumstances.
2. The Company shall provide to the Client a proposal for the services to be provided (the "Quotation" or the "Services") which shall set out, in as far as possible: (i) the services which will be undertaken for the Client, (ii) the date or time period within which the service will be performed, (iii) the prices which the Client shall be charged for the performance of the services including: (i) the costs of labour and materials which the Company shall charge; (ii) any other disbursements or expenses which the Company will require the Client to pay.
3. Where the Quotation is accepted, the Client will be deemed to have accepted the content of the Quotation and these terms in full. Quotations remain open for acceptance for a period of 30 days.
4. The Company will undertake to advise the Client of any matter that may affect the performance of the Services including circumstances or instructions that may require a variation of the service either instructed by the Client or the Local Authorities and a change to the Company's fee. In which case, the Company's charges will be reviewed.
5. The Client agrees to directly appoint all other consultants / contractors required for the project that are not a part of this Agreement, unless the sub-consultants have been presented to the Clients by the Company. The Client will ensure that all other consultants/sub-consultants/contractors/subcontractors maintain professional liability insurance as appropriate for the services provided.
6. It being understood that the Quotation has been produced by the Company in relation to the instructions received from the Client, should the Client issue an reviewed scope of works or significantly change the instruction or their requirements, the Company will be given the opportunity to amend the fee quote prior to the acceptance being signed and returned.
7. The Client shall hold each sub-consultant/contractor/subcontractor however appointed, and not the Company, responsible for the proper performance of their work.
8. The Company shall provide all labour, materials and equipment necessary for carrying out the contract unless stated to the contrary in writing by the Company. However, when mains electricity or water supply is required it is assumed that reasonable use of these site services, will be afforded by the Client at the Client's cost.
9. All work is to be undertaken during normal working hours (Monday to Friday) with unrestricted access to site for continuity of work in proper sequence and in an economical manner from commencements to final completion.

3. Fees

1. All tenders and/or Quotations are based upon present costs of production, transport charges and supplier's prices. In the event of our being called upon to meet any advance in the price of raw materials, wages, transport, etc., the Company reserve the right to increase our prices.
2. The Company reserves the right to require a deposit payment(s), staged payment(s), or payments in advance.
3. Notwithstanding the Quotation, the Company may vary the contract price from the amount set out in the Quotation where it has provided services (including materials) which are different or in addition to those set out in the Quotation either at the specific request of the Client or because the Company has been required to complete additional work which was not anticipated at the time the Quotation was made, or because of market fluctuations in the price of materials.
4. When additional work not covered by any Quotation is necessary, the additional costs and materials will be charged in addition to the Quotation.
5. The Client must pay the Company in accordance with this Agreement, Quotation or reviewed Quotation, as the case may be, all fees due plus applicable taxes and expenses.
6. Payment of the Quotation to the Company must be made within 14 days of the invoice unless otherwise agreed to in writing. All fees that remain unpaid thereafter will incur interest charges at a rate of 2.5% per month.
7. Where this Agreement has been entered into by an Agent (or a person purporting to be an Agent) on behalf of the Client, the Agent and the Client shall be jointly and severally liable for the payment of all fees due to the Company under this Agreement.
8. The Client must promptly notify the Company in writing of any dispute regarding fees and give the Company sufficient details to be able to respond. The dispute resolution procedure in section 5 shall not apply to any such dispute on fees. Undisputed fees shall be paid within the time frame stipulated in clause 3.6 above.
9. Where, for any reason, the Company provides only part of the services, the Company shall be entitled to payment in full for all services completed.
10. The client agrees not to withhold sums due to the Contractor or exercises any right of set-off.
11. Fees payable to the local authorities for Planning Applications and Building Licence Applications are not included within the Company's Quotation and the Client will be responsible for paying any necessary statutory fees and if applicable shall be reimbursed from the Client to the Company.
12. Depending on the size, nature, complexity of the project, the Company reserves the right to issue progress invoices monthly. The Company's progress invoices will be invoiced on such basis as the Company in its absolute discretion sees fit.
13. The Contractor reserves the right to amend these terms for any reason and will provide the Client with no less than 14 days advance notice of any changes to these terms.

3. Sub-contractor

1. The Company reserves the right to arrange for the whole or any part of the Services to be performed by a Sub-Contractors.
2. The Company is not responsible for supplying evidence of the separate consultants, sub-consultants, contractors and subcontractors so appointed.

4. Liability

1. The Company is not liable for any damage, loss or expense incurred by the Client as a consequence of any change that the Client or any other person makes to the Company's documents or any variation to the project, made without prior written approval by the Company.
2. The Company shall not be liable for any indirect or consequential loss or damage or any loss of profit, or indirect or consequential economic damage or loss, income, production or accruals arising in any circumstances whatsoever, whether in contract, tort under statute or otherwise, and however caused (including but not limited to our negligence or non-performance). This

includes, but it not limited to, damage caused by vibration, damage to roads, paths and driveways caused by carriage or storage of materials thereon, and subsequent ingress of rainwater etc.

3. The Client acknowledges that the Company operates through employees, agents and in some instances sub-consultants, and agrees that no reliance has or will be placed on them personally by the Client in connection with this Agreement on the performances of the agreed services.
4. No warranty, express or implied is given as to the life or wear of the goods supplied, nor that they will be suitable for any particular purpose or for use under specific conditions, notwithstanding that such purpose or conditions may be made known to the Client.
5. No Claims against the Company in respect of alleged negligence of the Company, its servants or agents, or any alleged defect in the Company's plant, machinery or materials or in respect of any other matter shall be valid unless notice in writing thereof is received by the Company at its registered office within 7 days after the happening of the event giving rise to the claim.
6. The liability of the Company in respect of any one claim or series of claims successfully brought against the Company in a Court of Law or by way of any other competent forum and arising from any one incident involving negligence of itself, its servants or agents, or through any defect in its plant or machinery shall not exceed the value of the Company's first quotation.
7. The Client will indemnify us on a full and unqualified basis and undertake to hold us harmless from and against all and any claims, liabilities, demands or proceedings howsoever brought, threatened or established against us in any jurisdiction and against all losses, costs, charges, expenses, interest and taxes which the Company may suffer or incur or which in any such case arise, directly or indirectly, out of or in connection with the Client's instructions provided that nothing in the paragraph will require the Client to indemnify the Company in respect of any liability which may not by law be limited or excluded.
8. The benefit of this indemnity shall survive any termination of arrangements contained in the T & C's and shall be in addition to any rights which the Company may have at law. For the purposes of this paragraph the "Company" includes each of the each and every director, employee, consultant, agent or sub-contractor.

5. Dispute Resolution

1. Any disputes between the Client and the Company in relation to this T & C's must first be attempted to be settled in good faith. Failing resolution within 21 days, the Client or the Company may by notice require that the matter in dispute be referred to mediation, such mediation to be finalised within 28 days.
2. If mediation has not occurred or settlement is not achieved within 21 working days of the written notice requiring mediation the Client and the Company may agree to refer the dispute to Arbitration or failing agreement, either party may refer the matters to the Courts for resolution.
3. Any dispute between the parties arising out of or in connection with the Agreement shall, at the Companies election, be referred to arbitration, unless such reference is precluded by Guernsey law. Such election shall be made by notice in writing to that effect. The Company shall give such binding notice once the dispute has arisen, or within 28 days of a written request by the Client for the Company to make the election. If, without making such request, the Client issues any legal proceedings against the Company in respect of any such dispute, the Company may still elect for arbitration by notice to that effect given to you within 28 days of service of the proceedings on us, in which event the Client will take no further steps in the proceedings other than to procure their dismissal or stay.
4. Where the Company, or any such partner or employee have given such notice of election the dispute concerned will be referred to and resolved by arbitration by three arbitrators in accordance with the rules of the International Chamber of Commerce (ICC) for the time being in force (the ICC Rules), save as amended by this paragraph. Subject to anything to the contrary in the T & C's the language of the arbitration shall be English and the place and seat of the arbitration shall be in the Jurisdiction of Guernsey.

6. Notice of Defects and Timelines

1. If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Services, or non-compliance with the Project's contract documents, the Client must notify the Company about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Company [in contract, tort or otherwise] in relation to the problem, fault or non-compliance.
2. Unless otherwise expressly agreed by the Company in writing, all timelines, schedules, milestones or dates provided by the Company or specified in the instruction or any of the Company's documents which relate to the performance of the Services by the Company are estimates only and the Company shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Services if performance is prevented by any reason deemed to be out of the Company's control. For the purposes of the contract, time shall not be of the essence.
3. If the Client is not completely satisfied with the Services provided, it must inform the Company immediately (and in any event no later than 4 days after the services were undertaken). Failure to do so will result in the Company having no obligation of rectification or replacement subject always to the damage being attributable to the actions of the Company.

7. Termination and Suspension

1. The agreement between the parties may be terminated immediately where any of the following circumstances arise: (i) Either party commits a serious breach or persistent breaches of this agreement including but not limited to the non-performance, neglect or default of any of his duties as outlined herein and after notice of this breach has been given to the defaulting party it remains unremedied and unrectified 14 days after such notice; (ii) Either party commits a breach of this agreement which cannot be remedied; (iii) Either party becomes insolvent or is declared en desastre.
2. The agreement between the parties may be terminated immediately by the Company in the event of a failure on the part of the Client to make payment within agreed timescales and after notice of this breach has been given to the Client it remains unremedied and unrectified 5 days after such notice.
3. Subject to clauses 7.1 and 7.2 above the Client or the Company may end this Agreement by writing to the other at their last known address or most recent email address. This Agreement will end 20 Working Days after the date the written notice is sent.
4. Any right to terminate the Agreement by any party shall be without prejudice to any accrued rights or liabilities arising out of this agreement which are in existence at the date of termination.
5. Without limiting any other rights the Company may have in this Agreement or in law or equity, the Company may suspend the performance of any part of the Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.
6. The Agreement shall end on completion of the Services or on termination.
7. Upon termination of the Agreement the Client shall pay to the Company such sums as may represent work done and expenses incurred up to and including the date of the termination.
8. The Client shall indemnify the Company against any loss or damage which results from the Client's breach of this agreement or failure to abide by any of its terms.

8. General

1. Paragraph headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.
2. The Company shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.

3. Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
4. If for any reason whatsoever any provision of this Agreement is or becomes invalid or unenforceable or is declared by any Court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or unenforceability of the remaining provisions shall not be affected in any manner and the parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable.
5. The Quotation and these T & C's constitute the entirety of the agreement made between the parties, and supersede any prior representations which may have been made, whether orally or in writing.
6. The failure by either party to enforce any provision of this agreement shall be deemed a waiver or limitation of that party's right to subsequently compel and require strict compliance with every provision of this agreement.
7. The property in the materials shall not pass to the Client until the Client has paid to the Company the whole price thereof, but all risk in such materials shall be borne by the Client from time of delivery, or from time of collection by the Client or the Company, as the case may be.
8. The Company reserves the right to enter premises or sites owned, managed, under the control of the Client, or being worked on by the Company, to retake possession of any goods in respect of which payment or part-payment is outstanding.
9. This Agreement and the arrangements referred to therein are subject to the laws of Guernsey and any disputes arising out of this contract or the arrangements referred to therein shall be subject to the exclusive jurisdiction of the courts and tribunals of the Bailiwick of Guernsey.
10. It is the responsibility of the Client to obtain any planning permission and/or building control approval for the said works under any application legislation prior to commencements of the contract.
11. The Client shall be responsible at all times for ensuring that the site is safe for the purpose of any workmen or employees of the Company on site.
12. From time to time it may be necessary for the Company to vary these T & C's. Where this is the case, the Company shall notify the Client of the proposed changes and, unless the Company hears from the Client to the contrary within 14 days after such notification, the amendments or new T & C's will come into effect from the end of that period.

9. General Data Protection Regulation

1. The Company operate a Data Protection Policy based on the Data Protection (Bailiwick of Guernsey) Law, 2017.
2. The Client's appointment of the Company to undertake the Services will explicitly permit use of the Client's personal data as required by the Company to ensure the normal running of the business, in order to fulfil the duties in which the Company have been appointed to perform.
3. By personal data the Company means identifiable information about the Client, including the Client's name, address, and email and telephone numbers. The Company will not forward this information to anyone else that is not connected to the project or use it for marketing purposes without seeking the Client's permission.
4. The Client acknowledges that the Company may be required to collect and process personal data relevant to the Client. The Client's attention is drawn to the *Privacy Notice contained on the Company's website*.
5. By accepting the Agreement, the Client acknowledges having read our *Client Data Protection Privacy Notice* contained on our website and that the Client has understood it.
6. The Client agrees that our holding and processing the Client's personal data in accordance with that Notice is necessary for the performance of the Agreement between the parties and that we have a legitimate interest in doing so.

All transfers and transmissions of your monies, assets or documents are made at your risk and we shall not be liable for any loss, damage or delays howsoever caused which are not directly caused by our gross negligence.

10. Force Majeure

1. The Company shall not incur any liability for any failure or delay in the performance of the obligations under the Engagement Contract arising out of or caused directly or indirectly by circumstances beyond our reasonable control (including acts of god, earthquakes, fires, floods, wars, civil or military disturbances, sabotage, terrorism, epidemics, riots, interruptions, loss or malfunctions of utilities, computers (hardware or software) or communication services, accidents, labour disputes, acts of any civil or military authority or governmental action). In the event of any such occurrence the Company will notify the Client as soon as reasonably practicable and shall use the Company's best endeavours to resume performance as soon as reasonably possible.
2. The execution of all orders and contracts is subject to contingencies beyond the Company's control and the Company cannot be held responsible for any delay, damage or loss whatsoever arising from war, Government requisitions of any kind, suspensions of means of transport, loss of steamer, strikes, lock-outs, fire, floods, accident, failure of any third party to supply us or anything directly interfering with the raw materials, manufacture, supply, shipment, arrival or delivery of goods.

11. Entire Agreement

1. The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances, and understandings between the parties, whether written or oral, relating to its subject matter.
2. The Client acknowledges that in entering into the Agreement the Client does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
3. The Client agrees that the Client shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.
4. Nothing in this clause shall limit or exclude any liability for fraud.