

1. Services

In accordance with the Proposal for Provision of Services (the "Proposal") which includes the service fees (the "Service Fees") and these Terms of Contract, Inform Surveying Limited will provide the Services using reasonable skill, care and diligence for the Service Fees stated in the Proposal (the "Project"). The Client's instruction to proceed with the Services constitutes acceptance of the Proposal and formation of the Contract upon these Terms of Contract. In the event of any conflict between these Terms of Contract and any other documents, the provisions of these Terms of Contract shall prevail.

2. Client Responsibilities

Performance of Services is subject to:

- timely provision of adequate and accurate information by the Client and those third parties over whom Inform Surveying Limited have no control; and
- performance by the Client and those third parties over whom Inform Surveying Limited have no control, of all functions upon which the Services or any part thereof are dependent; and
- provision of access to such sites and locations as and when may be necessary in order for Inform Surveying Limited to undertake the Services and shall procure such access and certification from any consultant, contractor or sub-contractor as is reasonably requested by Inform Surveying Limited; and
- obtaining by the Client of all permissions from and payment by the Client of all fees to third parties necessary to enable the Services to be undertaken.

Where the Client is unable to meet the above requirements or fails to act accordingly and where such actions affect the performance of Inform Surveying Limited, increases the involvement/workload of Inform Surveying Limited or materially affects the relationship and ability to fulfil the appointed responsibilities in accordance with the Contract and the Royal Institution of Chartered Surveyors (or any successor organisation) guidelines, then Inform Surveying Limited reserve the right to terminate the Contract with immediate effect or otherwise amend the Contract including the Service Fees to cover any and all changes.

3. Location

The Services will be provided from an Inform Surveying Limited office, unless otherwise agreed.

4. Contract Management

Each party will nominate a named individual who will be responsible for managing all issues relative to the performance of the Contract. When it is necessary for either party to change its named individual, prior notice in writing shall be given.

Where multiple Client's or contacts are involved, this must be adequately managed by the above named person to control communication in a clear and concise manner and Inform Surveying Limited will not have any responsibility for any inaccuracies or deficiencies in the performance of their service as a result of failings in communication from the Client.

5. Staff

Where individual staff are named in the Proposal, Inform Surveying Limited will use all reasonable efforts to ensure that the named individual(s) are used. However, this is not guaranteed. Where changes in staff are necessary, reasonable notice of the changes will be given.

If the Client has any issues at any time with any staff member or the resourcing of an instruction, this must be brought to the attention of one of the Directors of Inform Surveying Limited.

6. Sub-Contractors

Inform Surveying Limited reserves the right to employ agents and sub-contractors when providing any part of the Services.

7. Variations of Service

Inform Surveying Limited will bring to the attention of the Client any additional services required of Inform Surveying Limited which are considered to be outside the Services described in the Proposal.

Unless and until agreed to the contrary, additional services will be charged at hourly rates stated in the Proposal or, at rates analogous thereto. If there are no hourly rates stated in the Proposal or if there are no rates upon which charges can be based, then rates which are fair and reasonable will be charged.

With the exception of actions or failure to act having an impact on safety or compliance with legislation, additional services will only be undertaken with the Client's agreement, confirmed in writing. Where issues of safety or compliance with legislation are involved, Inform Surveying Limited will notify the Client of necessary variations at the earliest opportunity.

8. Confidentiality

The Client shall not without the prior written approval of Inform Surveying Limited disclose to any person (other than his legal and insurance advisors and auditors) or otherwise make use of any confidential information relating to Inform Surveying Limited including but not limited to the contents of this Contract and the Proposal.

The Client must make Inform Surveying Limited aware at the time of this Contract any confidentiality matters or specific matters which would need to be kept confidential.

Inform Surveying Limited will comply with the Client's requirements for confidentiality and secrecy to the extent to which they are made known. The Client shall be liable for any and all costs incurred by Inform Surveying Limited to keep such information confidential.

Inform Surveying Limited, will not be responsible to keep any information confidential under this Contract where the Client has failed to appropriately advise Inform Surveying Limited that such information is confidential. For the avoidance of doubt, the obligations of confidentiality shall not include any information: 1) that Inform Surveying Limited already has in its possession and at its free disposal prior to disclosure of such information; 2) that was developed by Inform Surveying Limited without any reference to Client; 3) which is or becomes generally available to the public through no default and/or omission of Inform Surveying Limited; and 4) to the extent that Inform Surveying Limited is required to disclose such information by law and/or regulatory authority.

At the request of Inform Surveying Limited, made at any time during the course of the Contract, and upon termination of this Contract for whatever reason, the Client will deliver up to Inform Surveying Limited or if requested by Inform Surveying Limited destroy any and all materials containing confidential information (in whatever medium) which is in the Client's possession, power or control.

9. Copyright

The intellectual property rights in all documents (including electronic representations) produced by Inform Surveying Limited ("Documents") shall vest or remain vested in Inform Surveying Limited. The Client shall have a revocable, non-exclusive, terminable, royalty free licence to use the Documents for the purpose for which they were prepared and Inform Surveying Limited shall not be liable for the use of any of the Documents for any purpose other than for which they were prepared.

10. Payment

- Where new instructions are undertaken, or where not otherwise confirmed, payment is to be made prior to the release of any reports/documentation;
- Invoices for periodic payment for work carried out will be issued on the 21st day or nearest working day of each month, which will also be the Payment Due Date. Payment Notices indicating the amount of payment and the basis of its calculation are to be issued by the Client not later than five (5) days after the Payment Due Date;
- Where instructions go beyond one month, Inform Surveying Limited reserve the right to issue an invoice each month for services on a pro-rata basis, and in accordance with all other payment terms;
- In respect of every invoice, the Final Date for Payment shall be fourteen (14) days after the Payment Due Date, unless otherwise agreed;
- The Client shall pay to the Company any reasonable expenses (including those charged by any debt collection agency) together with all legal and court costs incurred in the collection of any overdue account; Preferred payment is by BACS or other automated payments to Natwest Bank PLC, Sort Code 56-00-09 , Account No. 31886051 and remitted to Inform Surveying Limited, 7 Neepsend Business Centre, 1 Burton Road, Sheffield, S3 8BW or by such other methods as may be agreed in writing by the Company;

- Queries must be notified in writing to the Company within fourteen (14) days of receipt of the account after which date the Client shall not be entitled to dispute the amount shown save for manifest or gross error. Any Withholding Notice indicating an intention to withhold payment, its value, reasons and basis of calculation is to be issued by the Client not less than one (1) day before the Final Date for Payment;
- Inform Surveying Limited will be entitled following a minimum of seven (7) days notice in writing to the Client to suspend performance and delivery of the Services if the Client fails to make full and proper payment in accordance with these provisions;
- The payment terms are varied where the appointment is under the Party Wall etc. Act 1996. Under such instructions payment may be requested prior to the release of documentation, such as the Award. It should be noted that Award's are legal documents which should be treated as such, and in most events supersedes any terms herein confirmed, but only where such fee's are applicable to the 'notifiable works' only and not where professional advice is provided outside of the terms of the Party Wall etc Act 1996;
- Where the Client concludes Party Wall matters prior to the agreement of fee's within an 'Award', Inform Surveying Limited will be due all fee's incurred in the provision of time and services up to this point, and it will invoice the Client for such fee's, and these fee's will be payable in accordance with Inform Surveying Limited's standard terms on Party Wall etc. Act 1996;
- Without prejudice to any other right or remedy, Inform Surveying Limited shall be entitled to interest upon late payment at the Bank of England base rate plus five per cent (5%) per annum.

11. Complaints

Inform Surveying Limited treats all complaints seriously and prefer to deal with them at source and between the individuals concerned.

In the event of a complaint against Inform Surveying Limited, which has not been capable of resolution at source, the Client should write/email to Gavin Sampson, Director outlining clearly the points of the complaint and supporting information and with reference to the original appointment and Client Brief. Inform Surveying Limited have a Complaints Handling Procedure in accordance with the requirements under RICS Regulation.

Please contact Gavin Sampson at gavin@informsurveying.co.uk for a copy.

12. Insurance

Inform Surveying Limited will, provided it is available at commercially reasonable rates, maintain professional indemnity insurance at levels that would be reasonably expected from a consultant carrying out similar services and in accordance with their service fees, subject to any limitations, exceptions and/or exclusions from cover as are commonly included in professional indemnity insurance policies.

13. Health & Safety

Inform Surveying Limited shall act in accordance with the provisions of the Client Health and Safety Policy (where applicable) and where provided and / or as directed by any representative of the Client while on site performing the Services.

The Client is responsible for ensuring the site / property is safe for access, and for making all necessary arrangements to ensure all surveyors and any employed sub-consultants / sub-contractors are safe. This extends to providing Inform Surveying Limited with clear, accurate and up to date information with respect to the presence of asbestos within a property or land. Inform Surveying Limited operate a strict policy of not allowing surveyors to enter property or land where there may be a risk of asbestos or other potentially harmful materials present. Each responsible surveyor will request the provision of information such as an Asbestos Management Report or Refurbishment and Demolition Survey, and air clearance certification where applicable prior to entering a premises. Without these being made available and providing confirmation that it is safe to access the premises, then Inform Surveying Limited reserves the right to not enter the premises and the client will be responsible for all fee's and costs incurred.

The Client must carry sufficient insurance cover for undertaking the agreed services at all times.

We will not undertake any act or service which contravenes all applicable Health & Safety legislation or outside of safe working practices. Where access cannot be obtained safely or where the service cannot be fully provided, the Client will be responsible for providing safe access at their cost, or agreeing such services with Inform Surveying Limited to be invoiced as a disbursement. Inform Surveying Limited will not be accountable or liable for any loss of time as a result of inadequate access or safety concerns whilst undertaking the agreed services.

14. Termination

The Contract may be terminated by either party at any time by giving not less than thirty (30) days written notice.

The Contract may be terminated by either party without notice in the event of a material or persistent breach of the Contract by the other party or in the event that the other party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator appointed or calls a meeting of its creditors, or ceases, for any other reason to carry on business, or in either party's reasonable opinion any of these events appear likely to occur.

Further, Inform Surveying Limited reserve the right to terminate the Contract if the Client has failed to perform their duties in accordance with Section 2 or whereby Inform Surveying Limited in their reasonable opinion can no longer satisfactorily perform their duties. Any outstanding Service Fees and disbursement to the point of termination of the contract will be invoiced and will be deemed to be payable in accordance with the agreed payment terms.

In the event of termination by Inform Surveying Limited which is not as a result of the Client's breach of Contract, Inform Surveying Limited shall be entitled to payment of Service Fees as follows:

- such proportion of the sum or percentage as may be fair and reasonable; and
- time charges and additional services incurred up to the date of termination; and
- all other charges, disbursements and costs incurred up to the date of termination.

In the event of termination by the Client or by Inform Surveying Limited as a result of the Client's breach of Contract, including inability to pay debts, insolvency or cessation as described above, Inform Surveying Limited shall be entitled to payment of the Service Fees as above plus loss of opportunity and profit.

15. Disputes

Where Part II of the Housing Grants, Construction and Regeneration Act 1996 applies either party may refer any dispute or difference arising under this Agreement to adjudication. The adjudication procedures will be as set out in the Scheme for Construction Contracts made under that Act. Unless the parties agree otherwise in writing the adjudicator nominating body will be the Royal Institution of Chartered Surveyors or any successor organisation.

16. Limitation of Liability

- 16.1. Notwithstanding anything to the contrary in this Contract, the liability of Inform Surveying Limited under or in connection with this Contract whether in contract or in tort, in negligence, for breach of statutory duty or otherwise (other than in respect of personal injury or death) shall not exceed in aggregate the sum of the professional indemnity insurance cover that Inform Surveying Limited holds.
- 16.2. Further and notwithstanding anything to the contrary contained in this Contract and without prejudice to any provision in this Contract whereby liability is excluded or limited to a lesser amount, the liability of Inform Surveying Limited, if any, for any loss or damage ("the loss or damage") in respect of any claim or claims shall not exceed such sum as it would be just and equitable for Inform Surveying Limited to pay having regard to the extent of Inform Surveying Limited's responsibility for the loss or damage and on the assumptions that:
- (I) all other consultants and advisers, contractors and sub-contractors involved in the Project shall have provided contractual undertakings to the Client on terms no less onerous than those set out in this Contract in respect of the carrying out of their obligations in connection with the Project; and
 - (II) there are no exclusions of or limitations of liability nor joint insurance or coinsurance provisions between the Client and any other party to the Project and that any such other party who is responsible to any extent for the loss or damage is contractually liable to the Client for the loss or damage; and
 - (III) all the parties referred to in (i) above, have paid to the Client such proportion of the loss or damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss or damage.
- 16.3. Inform Surveying Limited shall not be responsible for the supervision of any contractor or subcontractor and/or for ensuring the performance or adequate standard of workmanship of any contractor or subcontractor. Inform Surveying Limited shall not be liable under or in connection with this contract for or as a result of any work and/or services provided by and/or any act or omission of any third party (including without limitation any contractor, consultant or sub-contractor).

- 16.4. The Client agrees not to pursue any claims under or in connection with this contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise) against any individuals engaged by Inform Surveying Limited or any individual directors or members of Inform Surveying Limited. The Client acknowledges that such individuals are entitled to enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 16.5. Inform Surveying Limited's liability under or in connection with this contract shall be limited to the exercise of reasonable skill, care and diligence and Inform Surveying Limited shall not be liable unless it has failed to exercise such skill, care and diligence.
- 16.6. No action or proceedings under or in respect of this contract whether in contract, in tort, in negligence, for breach of statutory duty or otherwise shall be commenced after the expiry of six years from the date of completion of Services or the termination of this contract if earlier.

17. Service of Notices or other documents

All notices or other documents required by this Contract shall be in writing and served upon the addresses notified by the parties or in the absence of such address, then the registered address, where applicable, or the last known principal business address.

18. Rights of Third Parties

No rights of this Contract shall be extended to third parties and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply.

19. Governing Law

The Contract is governed by and construed in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

20. Data Protection & GDPR

Inform Surveying Limited hold client information applicable to each instruction on our secure server. Each surveyor acting on behalf of the Client will store relevant contact details on their mobile devices and computer for communication purposes. We do not share any Client or personal information unless otherwise agreed. Should you as the Client, require any additional security measures or amendments to the way storage of documents and data is stored, you should contact the surveyor responsible for dealing with the instruction to carry out your request. If you require any further information with respect to our Data Protection Policy including GDPR, then please contact us.

21. Miscellaneous

The Company reserves the right to alter or vary these terms and conditions in any respect at its absolute discretion upon notifying the Client of the relevant alterations and of the date upon which such alterations take place which will not be less than 14 days from the date of notification.

The Client and the Company confirm that no improper payments or transfers of value have been made in relation to this agreement.

Neither Party may assign or transfer all or part of this Agreement without the written consent of the other.

Inform Surveying Limited may take photographs of the site and/or property for use in any publicity or advertising or refer to the site and/or property or you in any publicity or advertising.

These written Terms and Conditions set out the whole of the agreement between the Company and the Client with respect to the Service: all prior agreements, representations, statements, negotiations and undertakings are hereby superseded other than fraudulent misrepresentation.

CLIENT'S CONFIRMATION OF APPOINTMENT

We hereby accept the proposal for provision of services offered by Inform Surveying Limited, dated

..... in accordance with the fees and Terms of Contract stated therein.

Project or Property Ref::

Client (Company Name):

Client / Invoice Address:

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Contact No.:

Email:

Authorising Name/s:

.....

Signature/s:

.....

*On behalf of:

(Name of Client. This must be the same as that used in the heading and must be the Client's full and correct name).

*Position/s (where applicable)

Date

Please complete and return one copy of this Confirmation of Appointment to Inform Surveying Limited.

* Denotes, where applicable