

## Terms of Contract

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

A person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any Terms and Conditions of this contract.

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respect to the Services: all prior agreements, representations, statements, negotiations and undertakings are hereby superseded other than fraudulent misrepresentation.

### 1. Services

In accordance with the Proposal for Provision of Services (The Proposal) and these Terms of Contract, Richard Fletcher Associates Ltd will provide the Services using reasonable skill, care and diligence for the Fees stated. 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 provision 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 Richard Fletcher Associates Ltd have no control.
- Performance by the client and those third parties over whom Richard Fletcher Associates Ltd have no control, of all functions upon which the Services or any part thereof are dependent
- Provision of access to such sites and locations as and when may be necessary in order for Richard Fletcher Associates Ltd to undertake the Services.
- 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.

### 3. Location

The Services will be provided Richard Fletcher Associates Ltd 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.

Sheffield Business Centre, Suite A1, Europa Link, Sheffield, S9 1XZ

Tel: 0114 2998358 Fax: 0114 2437093

Email: [richard@qty-surveyor.com](mailto:richard@qty-surveyor.com) Web: [www.richardfletcherassociates.co.uk](http://www.richardfletcherassociates.co.uk)

Directors R.L Fletcher, L. Fletcher Vat Reg No. 895 0596 75 Co Reg No. 6007705



**5. Staff**

Where individual staff are named in the Proposal, Richard Fletcher Associates Ltd 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.

**6. Sub - Contractors**

Richard Fletcher Associates Ltd serves the right to employ agents and sub-contractors when providing any part of the Services.

**7. Variations of Services**

Richard Fletcher Associates Ltd will bring to the attention of the Client any additional services required of Richard Fletcher Associates Ltd 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 Proposals or, at rates analogous thereto. If there are no hourly rates stated in the Proposals 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 of failure to act having an impact on safety or compliance with legislation, additional services will only be undertaken with the Clients agreement, confirmed in writing. Where issues of safety or compliance with legislation are involved, Richard Fletcher Associates Ltd will notify the Clients of necessary variations at the earliest opportunity.

**8. Confidentiality**

Richard Fletcher Associates Ltd will comply with the Client's requirement for confidentiality and secrecy to the extent to which they are made known. Any costs incurred by Richard Fletcher Associates Ltd in so doing are to be reimbursed.

**9. Copyright**

Copyright in all documents and electronic representations prepared by Richard Fletcher Associates Ltd in providing the Services is reserved to

**10. Payment**

- Invoices for periodic payment for work carried out will be issued on 1<sup>st</sup> 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 issues by the client not later than 5 days after the Payment Due Date.
- Where instructions go beyond one month, Richard Fletcher Associates Ltd 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 14 days after the Payment Due Date.

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- The clients shall pay to the Company and 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 Santander sort code 09-02-22, account number 10422883 and remitted to Richard Fletcher Associates Ltd, Sheffield Business Centre, Suite 1A, Europa Link, Sheffield S9 1XZ or by such other methods as may be agreed in writing by the company.
- Queries must be notified in writing to the Company within 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 1 day before the Final Date for Payment.
- Richard Fletcher Associates Ltd will be entitled following a minimum of 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.
- Without prejudice to any other right or remedy, Richard Fletcher Associates Ltd shall be entitled to interest upon late payment at the bank of England base rate plus 8% per annum.

## 11. Complaints

Richard Fletcher Associates Ltd treats all complaints seriously and prefer to deal with them at source and between the individuals concerned. If this fails the following procedure shall be followed.

In the event of a compliance against Richard Fletcher Associates Ltd, which had not been capable of resolution at source, the Client should write to Mr. Richard Fletcher Director. Richard Fletcher Associates Ltd have a Complaints Handling Procedure in accordance with the requirements under RICS Regulations. Please contact Richard Fletcher at [richard@qty-surveyor.com](mailto:richard@qty-surveyor.com) for a copy.

## 12. Termination

The contract may be terminated by either party at any time by giving not less than 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 appears likely to occur.

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

- Such proportion of the sum or percentage as may be fair and reasonable
- Time charges and additional services incurred up to date of termination
- All other charges, disbursements and costs incurred up to date of termination.
- In the event of termination by the client or by Richard Fletcher Associates Ltd as a result of the Client's breach of Contract, including inability to pay debts, insolvency or cessation as described above, Richard Fletcher Associates Ltd shall be entitled to payment of Fees as above plus loss of profit.

### 13. Dispute

Any dispute arising under or in conjunction with this Contract shall be settled in accordance with the Scheme for Construction Contracts (England and Wales) Regulations 1998, Part 1, Adjudication provisions, amended as follows:

- (1) At paragraph 1(1) insert after 'arising' the words 'or in connection with'.
- (2) At paragraph 2(1) (b) the adjudicator nominating body shall be the Royal Institution of Chartered Surveyors.
- (3) Delete Paragraph 23(2) and substitute the following

'The decision of the Adjudicator shall be final and binding upon the parties'

### 14. 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.

### 15. 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.

### 16. Governing Law

The Law of England applies and any disputes will be referred by the parties to the English courts.

### 17. Estimates and Bill of Quantities preparation.

Whereas Richard Fletcher shall take due care in preparation of the enclosed documents and schedules no liability or responsibility shall be attached to Richard Fletcher Associates for any claim howsoever arising from

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# Richard Fletcher Associates

Reliable | Flexible | Accurate

- a. Misrepresentation of your requirements
- b. Conflict between oral and written communication between the purchaser or the purchaser's representative and Richard Fletcher Associates
- c. Errors or differences in quantities, calculations or rates contained in the items supplied or totals
- d. Omissions
- e. Errors in the documentation arising from the lack of site visit by Richard Fletcher Associates
- f. Any design, specification, structural, specialist design or contractual errors whether proposed by Richard Fletcher Associates or others. Richard Fletcher Associates are not designers, specifiers, structural engineers, service engineers or solicitors, and purchasers use any solution proposed at their own risk. Furthermore purchasers agree that they will verify any proposals with the relevant professional prior to use.

Complete responsibility is placed on the purchaser to check all the details of the documents prior to their use for any purpose and the purchaser shall in all cases act as the Principal and no responsibility or liability shall attach to Richard Fletcher Associates or any of its employees or agents in respect of any inaccuracy contained in any documentation or schedules provided by Richard Fletcher Associates.

The purchaser agrees to report in writing any error found in the documentation to Richard Fletcher Associates within seven days of its discovery.

All supporting products (including letters, e-mails, literature, documentation, DVD's, software etc. (in whatever form) providing or sold by Richard Fletcher Associates (including: Tendering for Profitable Building Work, Builders Estimating Systems, Securing Profitable Building Works, Builders Costs and Sources of Supply, etc. ) are provided or sold under copyright and are only for use with services provided by Richard Fletcher Associates.

All those items provided by Richard Fletcher Associates (including those described above) are provided to assist with the purchaser in the formulating tenders and should not be regarded as comprehensive or applicable to every tender situation. The purchaser must always rely upon their own experience and methods.

Where estimates are used as the basis of a competitive tender, the purchaser agrees to provide Richard Fletcher Associates with details (tender sums) of any tender submitted.

Estimate and Tender completion dates and delivery dates cannot be guaranteed by Richard Fletcher Associates and may in unusual or exceptional circumstances be varied. Furthermore delivery date may be varied where:

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- i. Delays in receiving payment
- ii. The purchaser's instruction or the works specified changes
- iii. The late provision of information, where by the purchaser or others in the provision of any relevant information ( including design, specification, contractual or cost information)

The 'purchaser' in the above text means the purchaser or any other user of any service provided by Richard Fletcher Associates and Richard Fletcher Associates means Richard Fletcher Associates or anyone acting on behalf of the same.

#### 18. 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.

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**CLIENT'S CONFIRMATION OF APPOINTMENT**

We hereby accept the Proposal for Provision of Services offered By Richard Fletcher Associates Ltd dated.....in accordance with the fees and Terms of Contract stated therein.

Name.....

Signature.....

Position.....

On behalf of:.....

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

Date.....

Please complete and return one copy of this Confirmation of Appointment to Richard Fletcher Associates Ltd, Sheffield Business Centre, Suite A1, Europa Link, Sheffield, S9 1XZ



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