

Terms of Engagement 23 Rochester Road

Definitions

When the following words with capital letters are used in Our Terms of Engagement this is what they will mean:

Agreement	the Proposal together with these Terms of Engagement
Disbursements	payments made by Us to a third party on Your behalf
Expenses	Includes but not limited to costs associated with travel, mileage, parking, overnight accommodation, searches, information release fees, special postage, couriers, additional printing, additional documents that may be necessary for the Project as set out in the Proposal (or as varied according to these provisions)
Fees	as set out in the Proposal (or as varied according to these provisions)
Intellectual Property	Copyright and related rights, moral rights, goodwill and the right to sue for passing off, rights to use and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Invoice(s)	includes reference to all Fees, Expenses and Disbursements due
Invoice Date	the date shown on the Invoice
Landowner	the freehold owner or long leaseholder of the Site
Design(s)	drawings, calculations, documents, designs, plans and/or other similar material created as a result of the Services
Party	either Us or the Client
Parties	Collectively referred to as both the Client and Us
Project	The project for which the Services have been provided
Services	as set out in the Proposal
Site	the site to which the Services relate as set out in the Proposal
Proposal	Our written Proposal setting out details relating to the Services required
We/Us/Our	Croft Structural Engineers Limited, Reg. Co. No. 05143436, Registered Office at 104 High Street, West Wickham, Kent, BR4 0NF
You/Your/Client	Client as set out in the Proposal

1. The Services

- 1.1. These Terms of Engagement set out the provisions upon which We will provide the Services and must be read in conjunction with the Proposal. Acceptance of Our Proposal also includes Acceptance of these Terms of Engagement. These provisions will apply in all cases unless modified by agreement and confirmed in writing by both Parties.
- 1.2. We shall exercise reasonable skill, care and diligence in the performance of the Services. Our Services only extend to structural work (Part A of Building Regulations). We do not provide Contractor design items which may cover but not limited to; temporary works, fabrication details, steelwork connection design, reinforcement schedules, Secondary steelwork for cladding support, precast elements, lintels, timber trusses or timber frame, temporary propping & works.
- 1.3. We shall, unless otherwise expressly agreed, rely upon information provided to Us by You or members of Your construction team relating to relevant matters. We provide no opinion nor advice as to the condition of un-inspected or concealed parts.
- 1.4. Design calculations will only be released once accounts are cleared in full.
- 1.5. If during the course of the Services, matters arise that may require alteration of or addition to the agreed Services, then We will advise You accordingly in writing. This will include details of any additional fees or charges arising as a result.

1.6. We accept Your request to carry out the Services on the understanding that You are the owner or the owner's agent and are therefore in a position of authority such that You may give permission for the Services to be carried out.

2. Fees

2.1. The Fees will be as set out in the Proposal and are subject to the addition of any Additional Fees, Expenses, Disbursements and VAT.

2.2. Additional Fees will be charged on a time basis where:

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| a) additional services are requested or required over and above that set out in the Proposal | e) any services are required to support Party Wall issues; |
| b) the work scope is varied or if changes are required as a result of reasons beyond our control; | f) physical investigation works are required; |
| c) reinforcement drawings or schedules are required; | g) we are required to inspect uncovered items, defective structure, unexpected ground conditions; |
| d) alterations are required due to unforeseen conditions of the building fabric uncovered during works, ground obstructions, Thames Water drains, build over notices, adjacent property footings protruding; | h) collateral warranties required |
| | i) Drainage design may become necessary. |
| | j) Information or alterations requested by the party wall surveyors |

This is a non-exhaustive list.

2.3. Fees are calculated on the following time charge basis as follow

Director	£150.00 per hour	Associate	£125.00 per hour
Party Wall Surveyor	£125.00 per hour	Chartered Engineer	£110.00 per hour
Structural Design Engineer	£85.00 per hour	Structural Technician	£70.00 per hour
Administration	£40.00 per hour		

These rates are subject to annual review on 1 August. You will be notified in advance if these changes will have an impact on the Fees that We will charge.

3. Disbursements and Expenses

- 3.1. It may become necessary to incur Disbursements and Expenses during the course of carrying out the Services. Disbursements and Expenses will be charged at cost.
- 3.2. Disbursements and Expenses will be included on Your invoice as a separate item or We may request You to make payment direct. Subject to 3.3 below or as stated to the contrary in the Proposal, We will not incur Disbursements without Your prior approval.
- 3.3. You agree that we may incur up to fifty GB pounds (£50.00) of Disbursements and Expenses without your prior written consent. Specific written instructions for greater expenditure will be agreed and received from You prior to being incurred.

4. Payment

- 4.1. VAT will be levied on our Fees, Disbursements and/or Expenses etc. incurred in accordance with the prevailing regulations at the time of preparing Your invoice.
- 4.2. Invoices are due on presentation and must be paid in full and in cleared funds by electronic transfer within 14 calendar days from the Invoice Date (the "Final Date for Payment"). Our bank details will be noted on the Invoice. Invoices will be raised monthly or alternatively upon completion of the Services. If You have any difficulty with paying an Invoice, please discuss this with Us as soon as possible, so that We may discuss a mutually satisfactory arrangement.
- 4.3. In the event that any sum, or part thereof, remains unpaid after the Final Date for Payment, We reserve the right to charge interest at the rate of 2% per month on accounts outstanding. Such interest to accrue on a daily basis from the Final Date for Payment until actual payment of the overdue amount, whether before or after judgment.

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- 4.4. Please understand that We may refer the issue of unpaid Invoices to a debt recovery agency to obtain payment. Should legal or other action be required to obtain payment or recover outstanding monies, any costs incurred may also be added to the outstanding amounts.
- 5. Delivery of Designs and documentation**
- 5.1. We will retain our files for a minimum period of six years (other than for abortive work) but after that, may destroy them without further reference to You.
- 6. Intellectual Property**
- 6.1. All Designs are prepared for Your sole use as outlined in the Proposal and no liability is accepted to any third party for use of the same. Should You wish to use Our Designs for any other use then our written approval must first be obtained. We reserve the right to charge additional fees for such use.
- 6.2. As between You and Us, all Intellectual Property Rights and any other rights in the Designs shall be owned by Us. We licence all such rights to You free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable You to make reasonable use of the Designs for the Project for which the Designs were drafted. This licence to You carries the right to grant sub-licences and shall be transferable to third parties to use in line with the Proposal. In the event We terminate this Agreement then this licence will automatically terminate.
- 7. Liability**
- 7.1. We carry professional indemnity and public liability insurance in the sum of one million pounds per annum.
- 7.2. We do not assume nor accept any responsibility for aspects of matters upon which other professional consultants might ordinarily be expected to advise and We shall have no liability for any errors arising from such matters. Although we may suggest third parties to You, we accept no responsibility for their work.
- 7.3. Our liability to You in connection with any matter is limited to the proportion of the loss or damage suffered by You which is just and equitable, having regard to the extent of Your own responsibility and the contribution of any other person irrespective of any limitation of their liability or their ability to pay or any limitation defences open to them.
- 7.4. If We fail to comply with these provisions, We are responsible for loss or damage you suffer that is a foreseeable result of Our breach of the Terms or Our negligence, but We are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of Our breach or if it was contemplated by You and Us at the time we entered into this contract.
- 7.5. Our aggregate liability, whether to You or any third party, of whatever nature, whether in contract, tort or otherwise, for any losses (including interest and legal costs) whatsoever and howsoever caused, arising from or in any way connected with each matter, shall not exceed 50 times the Fees invoiced to You or any sum paid out under insurance, whichever is the lower. For this purpose, all claims in relation to a matter arising from the same act or omission or one series of related acts or omissions will be regarded as one claim.
- 7.6. We shall not be liable to the extent that any losses are due to the provision of false, incorrect, misleading or incomplete information or documentation or due to the acts or omissions of any person other than Our staff. We accept no liability for the use of our Designs for any other purpose other than as set out in the Proposal.
- 7.7. Nothing in These Terms of Engagement purport to exclude or limit liability that cannot be excluded or limited under any applicable rules and law.
- 7.8. We shall not be liable for any loss, delay, default or failure of performance due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond our reasonable control.
- 8. TERMINATION**
- 8.1. You may terminate this Agreement upon giving fourteen (14) calendar days notice in writing to Us. If termination is not due to Our material breach of this Agreement, then You agree to indemnify Us for

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time spent calculated on an hourly rate basis in respect of the Services carried out prior to the end of the notice period.

- 8.2. We may terminate this Agreement by giving notice in writing to You if We consider there is any material reason why We should cease the provision of the Services or should You fail to pay our Invoices in accordance with this Agreement. You will only be liable for Fees, Disbursements and expenses incurred up to the date of our termination notice.
- 8.3. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force, on or after termination or upon completion of the Services under this Agreement, shall remain in full force and effect.

9. NOTICES

- 9.1. If You wish to contact Us in writing, or if any clause in this Agreement requires You to give Us notice in writing (for example, to cancel the contract for services which We have started to provide), You can send this to Us:
- by e-mail addressed to Chris Tomlin at [REDACTED] or
 - by hand (i.e. delivered personally) or prepaid post for the attention of Chris Tomlin at Clock Shop Mews, Rear of 60 Saxon Road, SE25 5EH

We will confirm receipt of this by contacting You in writing.

- 9.2. If We have to contact You or give You notice in writing, We will do so by e-mail, by hand, or by prepaid post to the address set out in the Proposal.
- 9.3. This paragraph does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

10. GENERAL

- 10.1. If any of the provisions of this Agreement are declared void, illegal or otherwise unenforceable, then those provisions will be treated as deleted from these Terms of Engagement to the extent to which they are unenforceable and the remaining provisions will continue to apply.
- 10.2. This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the Parties, whether written or oral, relating to its subject matter. Each Party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 10.3. This Agreement is not intended to and shall not create or give rise to any third party rights whether arising under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 10.4. Our Terms of Engagement shall be governed by the Law of England and Wales. The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) save that the Parties shall first use their reasonable endeavours to settle any dispute in an amicable and professional manner.
- 10.5. The Client agrees not to employ, nor attempt to employ any of the Engineer's staff without the express written agreement of Chris Tomlin (managing director of the Engineer). The Client acknowledges that any agreement may be subject to additional terms and conditions.

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CLIENT ACCEPTANCE FORM – 23 Rochester Road

Tick as appropriate

I accept the fee Proposal for the Property. I have read, understand and accept Croft Structural Engineers' Terms of Engagement. I would like Croft to undertake the design.

I enclose a cheque for £240 as a deposit towards the Fees and would like Croft Structural Engineers to commence the provision of the Services. *

Signed

[Redacted signature]

Print Name(s)

[Redacted name]

Invoice address

IDE REAL ESTATE

Date

14/3/16

Please post or email this acceptance form to Croft Structural Engineers, Clock Shop Mews, Rear of 60 Saxon Road, London, SE25 5EH. Thank you.

YOUR RIGHTS TO CANCEL

You have the right to cancel this contract within 14 days without reason. The cancellation period expires within 14 days from the date submitted on your acceptance form. Should you wish to exercise your right, a written cancellation request must be received by us during this period. You may use pre-paid post, courier or alternatively send an email to [Redacted email address]

If you choose to exercise your right to cancel, we will reimburse all payments received from you without undue delay and in any event.

*Should we have already commenced the Services, you agree to pay us for the Services that had already been performed prior to our receipt of your cancellation request.