

Stroma Building Control Terms & Conditions

These terms are to be read in accordance with the relevant form of agreement, proposal document or fee letter and any definitions contained in such document are incorporated into these terms.

1. Stroma Building Control's General Obligations

- 1.1 Stroma Building Control shall carry out the Services and any Additional Works with reasonable skill, care and diligence in accordance with this Contract.
- 1.2 Stroma Building Control shall have due regard to the CICAIR Code of Conduct for Approved Inspectors and where possible to any programme for the Project (as amended from time to time).
- 1.3 For the avoidance of doubt, Stroma Building Control does not take on any responsibility or liability for electrical and/or gas works.
- 1.4 Once appointed the Client, unless otherwise advised, agrees that Stroma Building Control shall submit any required Initial Notice to the Local Authority on its behalf. Acceptance of the Initial Notice by the Client shall constitute acceptance of these Terms and Conditions in the absence of any other signed agreement.
- 1.5 Stroma Building Control may charge for any additional work required in the event that (i) the Local Authority rejects an Initial Notice or (ii) additional correspondence is required in order to obtain test certificates or seek extensions of time.

2. Client's Information and Obligations

- 2.1 The Client shall provide such information and assistance as Stroma Building Control reasonably requires from time to time in order to facilitate the timely provision of the Services and any Additional Work.
- 2.2 The Client shall be responsible for safe access to the Project being provided when Stroma Building Control reasonably requires it.
- 2.3 The Client shall notify Stroma of any changes to the Project which are referred to in clause 6.1
- 2.4 The Client shall be responsible for giving no less than two working days' notice to Stroma before any work is due to start on site on the Project.
- 2.5 The Client shall keep Stroma regularly informed of progress of the Project after the start date and, in particular, should notify Stroma when key project stages are met which would require a site visit.

3 Design, permits and approvals

- 3.1 Except where required by law, and to the extent set out in Part 2: Services, the Client shall be entirely responsible for the design, construction and management of the Project and any Additional Work.
- 3.2 The Client shall also be entirely responsible for obtaining and implementing all necessary permits, licences and approvals, except those which form part of the Services or any Additional Work.

4 Compliance with Building Regulations

- 4.1 The Client shall be responsible for the Project's compliance with the Building Regulations and the Services do not include advising the Client or managing the Project to ensure that compliance is achieved.
- 4.2 Stroma Building Control shall take such steps as are reasonable to enable it to be satisfied as to the Project's compliance with the Building Regulations, and if so satisfied, it shall issue a final certificate at such time as the Client has complied with all of its obligations under this contract.
- 4.3 The final certificate is not a representation that every aspect of the Project complies with the Building Regulations.

5 Payment

- 5.1 The due date for payment of an instalment of the Fee, together with expenses and disbursements if they are to be paid in addition, shall be the date of submission of Stroma Building Control's valid invoice for each instalment. The final date for payment of the invoice is 28 days after the due date for payment. The Fee is exclusive of VAT, which shall be paid in addition if applicable.
- 5.2 Where the Client is a commercial client, any sum due under this contract which is not paid by the final date for payment shall carry interest in accordance with the Late Payment of Commercial Debt (Interest) Act 1998.
- 5.3 Where the Client intends to withhold any payment due to Stroma Building Control it must give written notice to Stroma Building Control not less than 5 working days before the final date for payment as stated in clause 5.1 along with detailed reasons explaining why such payment has been withheld.

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- 5.4 In the event that the Client fails to make any payment in accordance with the terms of clause 5.1, Stroma Building Control may, in addition to its rights under clause 5.2, suspend provision of the Services until such time as payment has been made in full. The Client shall bear any additional costs arising from such suspension.
- 5.5 For the avoidance of doubt, Stroma Building Control will not be obliged to issue a Final Certificate until payment of the Fee has been made in full.

6 Changes to the Project and Additional Work

- 6.1 It is the Client's responsibility to inform Stroma of any changes in design, construction or additional works which were not included in the initial notice.
- 6.2 It is the Client's responsibility to notify Stroma of any of the following:
- 6.2.1 Changes in the design, size, scope or complexity of the Project;
 - 6.2.2 Changes in the timing or programming of the Project;
 - 6.2.3 Any additional works which were not included in the initial notice.
- 6.3 Stroma Building Control shall notify the Client in writing as soon as it becomes aware that Additional Work will be required due to any changes referred to in clause 6.1 or because of:
- 6.3.1 A failure by the Client to comply with its obligations under this contract;
 - 6.3.2 An amended scope is required as a result of a deficiency in the information provided by the Client;
 - 6.3.3 Additional meetings and/or visits and/or other work is required.
- 6.4 The Client shall pay Stroma Building Control for the Additional Work on a time charge basis, at the rates set out in the Form of Agreement.
- 6.5 Stroma Building Control may include the charge in the next payment instalment after the Additional Work (or part of it) has been performed.

7 Insurance

- 7.1 Stroma Building Control shall maintain professional indemnity insurance and public liability insurance in compliance with the guidelines issued by the Department of Communities and Local Government (or any successor Department responsible for the Building Act 1984).
- 7.2 On the Client's reasonable written request, Stroma Building Control shall provide evidence that these insurances are properly maintained.

8 Assignment and subcontracting

- 8.1 Stroma Building Control may assign its rights and benefits under this contract.
- 8.2 Stroma Building Control may subcontract any part of the Services and any Additional Work, without the prior approval of the Client.

9 Termination and discharge

- 9.1 The Client may terminate this contract forthwith if:
- 9.1.1 Stroma Building Control is in material breach of its obligations under this contract and has failed to remedy the breach within 28 days of the date of a notice of the breach from the Client; or
 - 9.1.2 Stroma Building Control becomes insolvent.
- 9.2 Stroma Building Control may terminate this contract forthwith if:
- 9.2.1 The Client is in material breach of its obligations under this contract and has failed to remedy the breach within 14 days of the date of a notice of the breach from Stroma Building Control;
 - 9.2.2 The Client fails to provide Stroma Building Control with adequate opportunities to inspect the building works;
 - 9.2.3 Stroma Building Control reasonably believes that it will not be in a position to issue a final certificate on completion or within statutory time periods (as a result of the Client's failure to comply with the Building Regulations); or
 - 9.2.4 The Client becomes insolvent.
- 9.3 Stroma Building Control is entitled to write to the Local Authority (with a copy to the Client) cancelling the initial notice under the Building Regulations, in which case Stroma Building Control functions will revert to the Local Authority and Stroma Building Control will be discharged from all requirements to complete the Services or any Additional Work.

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10 Consequences of termination

- 10.1 If this contract has been terminated by the Client, the Client shall pay Stroma Building Control any instalments of the Fee due up to the date of termination together with a fair and reasonable proportion of the next instalment of the Fee commensurate with the Services and any Additional Work performed and costs incurred by Stroma Building Control prior to the termination.
- 10.2 If this contract has been terminated by Stroma Building Control pursuant to clause 9.2, the Client shall pay Stroma Building Control the entirety of the Fee outstanding at the date of termination.
- 10.3 Where termination of this contract occurs prior to commencement of the Services, a cancellation charge of 30% (thirty) of the Fee may be raised by Stroma Building Control.
- 10.4 No refunds will be due from Stroma Building Control for any fees paid by the Client prior to termination.
- 10.5 Termination of this contract shall not affect any rights or remedies of the Client or Stroma Building Control which exist at the date of termination.

11 Limitations of liability

- 11.1 Nothing in this clause 11 shall limit either party's liability for (i) negligence resulting in death or personal injury or (ii) fraud or fraudulent misrepresentation.
- 11.2 Stroma Building Control shall have no liability to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any (i) loss of profit, revenue, use, business or goodwill or (ii) any indirect or consequential loss arising under or in connection with this contract.
- 11.3 Notwithstanding any other provision in this contract (apart from clauses 11.1 and 11.2), Stroma Building Control's total liability to the Client for any claims arising under or in connection with this contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise) shall be capped at the level of the Fee.
- 11.4 Without prejudice to any other exclusion or limitation of liability, damages, loss, expense or costs, the liability of Stroma Building Control for any loss or damage ("the loss or damage") under this contract shall be limited to that proportion as it would be just and equitable for Stroma Building Control to pay having regard to the extent of its responsibility for the loss or damage on the assumptions that:
 - 11.4.1 All other consultants, contractors, subcontracts, and advisers engaged in connection with the Project have provided contractual undertakings on term no less onerous than those in this Agreement to the Client in respect of the carrying out of their obligations in connection with the Project;
 - 11.4.2 There are no exclusion of or limitations of liability nor joint insurance or co-insurance provisions between the Client and any other party referred to in this clause and any such other party who is responsible to any extent of the loss or damage is contractually liable to the Client for the loss or damage; and
 - 11.4.3 All the parties referred to in this clause 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.
- 11.5 Stroma Building Control shall not be responsible for the supervision of any subcontractor of the Client, nor shall Stroma Building Control have any liability for ensuring the performance or adequate standard of workmanship of any contractors or subcontractors of the Client.
- 11.6 The Client shall look only to Stroma Building Control (and not to individuals engaged by Stroma Building Control or any individual directors or members of Stroma Building Control) for redress if the Client considers that there has been any breach of this contract. The Client agrees not to pursue any claims in contract, in tort (including negligence, for breach of statutory duty or otherwise against any such individuals as a result of carrying out its obligations under or in connection with this contract at any time. The Client acknowledges that such individuals are entitled to enforce this term of the contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

12 Notices

- 12.1 The Client and Stroma Building Control can give notice to each other in writing under this contract by personal delivery or by registered first class post to the address stated in the Fee Proposal.
- 12.2 Where any notice is sent by registered first class post, it will be deemed served one working day after being signed for.

13 Disputes and complaints

- 13.1 If the Client is not satisfied with Stroma Building Control's performance of the Services or any Additional Work, it may ask Stroma Building Control to implement its complaints handling procedure. Stroma Building Control shall provide a copy of its complaints procedure on request.

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The operation of Stroma Building Control's complaints handling procedure does not affect the Client's rights to refer a dispute to the courts.

- 13.4 The Client and Stroma Building Control shall consider in good faith whether any dispute or difference between them is suitable for resolution by mediation, and if so shall take the appropriate steps with a view to resolving the dispute or difference by mediation.
- 13.5 Alternatively, either the Client or Stroma Building Control may at any time refer a dispute or difference arising under or in connection with this contract to adjudication in accordance with the edition of the CICAIR Model Adjudication Procedure current at the date of the adjudication notice. The Adjudicator shall be appointed by the CICAIR. Nothing in this clause 13 shall affect either Party's rights to refer a dispute to the courts.

14 Novation

- 14.1 Stroma Building Control shall, within 14 days of the Client's request, execute and deliver to the Client a novation agreement substantially in the form of this Agreement. Such a request from the Client may not be unreasonably refused by Stroma Building Control
- 14.2 With effect from the date of execution of that novation agreement:
- 14.2.1 All references to the Client in this contract shall (unless the context otherwise requires) be construed as references to the contractor;
- 14.2.2 Any variations to the Services and other obligations of the Client and Stroma Building Control set out in the Form of Agreement or any other contract or agreement signed by both parties to the novation agreement shall apply; and
- 14.2.3 The rights and obligations of Stroma Building Control in respect of the Project shall otherwise remain unchanged.
- 14.3 The Client agrees that Stroma Building Control may novate the contract to any other suitably skilled organization at any stage during the project by giving not less than 14 days written notice.

15 Rights of third parties

- 15.1 No party who is not a party to this Agreement has any right to enforce any term of this contract under the Contract (Rights of Third Parties) Act 1999, except as set out in clause 11.6.
- 15.2 This does not affect the rights of the Client and Stroma Building Control in relation to this contract.

16 Copyright and Documents

- 16.1 Copyright in all documents prepared by Stroma Building Control in providing the Services or any Additional Work shall remain its property.
- 16.2 Subject to payment by the Client of the Fees properly due to Stroma Building Control under this contract, Stroma Building Control grants to the Client an irrevocable license to copy and use the documents solely for any purpose related to the Project.
- 16.3 Stroma Building Control shall not be liable for any use of the documents for any purpose other than that for which they were prepared and provided by it.

17 Commencement

- 17.1 Whatever the date of this contract, it shall have effect as if it had been signed on the date when Stroma Building Control commenced the Services.

18 GDPR

- 18.1 Stroma Building Control will ensure compliance with the General Data Protection Regulation (GDPR) when processing the personal information that you have included within this document.
- 18.2 Stroma Building Control will only use this information in accordance with the Project and to contact you about other opportunities with Stroma.
- 18.3 If you would like to find out more information about Stroma Building Control's compliance with GDPR and use of your personal data, please visit our website www.stroma.com/data-protection.
- 18.4 If you have any questions concerning data protection or the use of your personal data, please contact us before agreeing to these Terms & Conditions.

19 General

- 19.1 Both parties will comply with all applicable legislation in relation to their activities under this Agreement.

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- 19.2. If the cost to Stroma Building Control of providing the Services or complying with this Agreement is increased during the Term as the result of any change in applicable legislation, Stroma Building Control will have the right to increase the Fee to reflect such increased cost.
- 19.3. Nothing in this Agreement is intended to, or will be deemed to, establish any partnership or joint venture between the parties, nor make either party the agent of the other for any purpose, save where required to give effect to the Agreement. Neither party will have authority to act as agent for, or to bind, the other party in any way.
- 19.4. Except as set out in these Conditions, no variation of this Agreement, including the introduction of any additional terms and conditions, will be effective unless agreed in writing and signed by both parties.
- 19.5. This Agreement will be construed in accordance with the laws of England and Wales and any disputes or claims (including non-contractual disputes or claims) arising out of it will, subject to the above terms, be dealt with in the courts of England.

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