

J P CHICK & PARTNERS LIMITED - CONDITIONS OF ENGAGEMENT

General

1. All commissions are subject to an internal quality system and all reports, calculations, drawings and specifications are independently checked prior to issue. Our design will be undertaken having due regard to the Client's requirements, Building Regulations and the relevant Standards, subject to the use of reasonable skill and care.
2. Our fee proposal is valid for 60 days, after which we reserve the right to review the fee, our resources, and the design programme. We have based our fee proposal on the basis of the project proceeding in a timely manner, without interruptions to progress, any significant delay or change in the procurement route. If these occur, we reserve the right to review our fee, our resources and design programme.
3. Normally calculations and drawings will be checked by an external party and occasionally, due to different interpretations of standards, modifications are made. We would therefore recommend that works on site are only commenced after receipt of approval.
4. When a quotation is provided it is based on the assumption that we will carry out major design work only once. Redesign necessitated by changes in the scheme by others and outside of our control etc and / or any additional design, e.g. of other elements of the structure, will be charged for on a time and hourly rate basis.
5. We have not allowed for the design of specialist items such as pre-cast concrete, manufactured truss rafter roofs, glazing, steelwork connections etc, as we have assumed that these will be designed by a specialist manufacturer unless stated otherwise.

Site Inspections

6. When undertaking surveys the Engineer will inspect as much of the property as is necessary to report on. Areas not exposed, for example inaccessible roofs, roof spaces, wall cavities, timber studwork behind linings, under floor spaces etc will not be inspected.
7. Reports shall be for the private and confidential use of the client for whom they were undertaken and should not be reproduced in whole or in part or relied upon by third parties for any use without the express written authority of the Engineer.

Health & Safety

8. The works to the property will fall under the latest health and safety regulations (CDM 2015). You may already have been informed of the Client duties under this legislation and as such have appointed a 'principal designer'. Our role will purely be as a designer under the regulations and for all health and safety matters we will liaise directly with your principal designer. If this is not the case we may have to act as your principal designer to comply with the regulations; in which case we will need to discuss the issues with you further. In any event, if you are unsure of your role as the client, as a result of these new CDM regulations, please ask.

Terms of Payment

9. Except where stated or otherwise, our fees will be charged on an hourly rate basis, as recommended by the Association of Consulting and Engineering. The following expenses will be re-charged to the Client: travelling expenses; car mileage at 74 pence per mile; accommodation and subsistence costs; postage and couriers; printing and photocopying, or any other cost incurred with any third party specifically in relation to the provision of goods or services to or for the benefit of the Client.
10. We reserve the right to invoice on a monthly basis.
11. Our terms are full payment within 14 days of invoicing. Interim accounts for work in progress will be issued monthly. All sums due from the Client which are not paid on the due date (without prejudice to the rights of Consultant under these terms) shall bear interest from day to day at the same annual rate as prescribed from time to time pursuant to section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 with a minimum rate of 10% per annum. During any period in which payments from the Client are overdue, the obligations of the Consultant may be suspended.

12. All sums payable under this agreement unless otherwise stated are exclusive of VAT and other duties or taxes. Any VAT or other duties or taxes payable in respect of such sums shall be payable in addition to such sums.

Liability

13. Further and notwithstanding anything to the contrary contained in [*this Agreement*] and without prejudice to any provision in [*this Agreement*] whereby liability is excluded or limited to a lesser amount, the liability of [*the Consultant*], 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 [*the consultant*] to pay having regard to the extent of [*the consultant'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 Agreement*] 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.

14. J P Chick & Partners Limited shall have no liability for loss of production, loss of profits, loss of business or any other indirect losses or consequential damages arising through the performance or non-performance of the Services.

15. The total liability of the consultant shall not exceed in the aggregate the lesser of:

- i) the sum of £1 million; or
- ii) a multiple of 10 times the total of the fees payable to the consultant by the Client

16. J P Chick & Partners Limited shall carry out the Services for the sole use and benefit of the Client. Nothing in the Agreement confers or purports to confer on any third party any benefit or right to enforce any term of the Agreement.

17. J P Chick & Partners Limited shall maintain professional indemnity insurance in an amount not less than the limit of liability prescribed above for any one or series of occurrences arising out of the Agreement for a period of six years, provided that within that amount any annual aggregate stated in the relevant insurance policy in respect of claims for pollution, contamination and asbestos shall not be exceeded, and provided always that such insurance is available at commercially reasonable rates.

18. No action or proceedings under or in respect of this Agreement, whether in contract or in tort negligence or for breach of statutory duty or otherwise shall be commenced against J P Chick & Partners Limited after a period of six years following practical completion of the project, or such earlier date as may be prescribed by law.

19. The Agreement between J P Chick & Partners and the Client is subject to the law of England and Wales.

20. J P Chick & Partners Limited shall maintain public liability insurance covering their employees and agents for the effective date of the Agreement until the completion of the Services in the sum of £10 million provided as always that such insurance is available at commercially reasonable rates.