

W Howard Engineering
Terms and Conditions of Contract

**Terms and Conditions of Contract for Renovation and / or Extension work
to Houses. Including Loft Conversions.**

Preamble

- 1) In order to fulfil obligations our Insurers insist upon and in the interests of your project being completed safely in a manner conducive to proper legality and in the spirit of concordance we request the client and other contracting parties read these terms and conditions paying particular attention to clauses 2, 10, 11, 13, 17, 20 and 22. These terms and conditions shall be emailed to the client. Within said email the client shall be requested to reply with consent to agree to these terms and conditions, to decline from agreement to these terms and conditions or to ask for clarification or modification of any clause or number of clauses in which case, although we cannot promise to make amendments, we shall be happy to enter into negotiations in order to form a mutually compatible agreement.
- 2) These terms and conditions, along with any supplementary documents, including all relevant documentation generated by us or the client, form a set of contractual documents. Any instruction, drawing, specification or other relevant documentation provided by us is done so on the expectation that these items shall be considered for incorporation in the works. We shall not be liable for any deviation from such instruction, drawing, specification or other item unless we make expressed agreement to the contrary. Any amendments made by the client should be notified to us at the earliest opportunity and we withhold the right to endorse or otherwise such amendments and shall endeavour to do so at the earliest opportunity. It is generally in the interests of the client to inform us of any amendments immediately as such alterations may influence the validity of Insurances held by the client, any agent of the client or us.
- 3) In no event shall the statutory rights of any individual or body or organisation of persons be affected by any clause within these terms and conditions.
- 4) We reserve the right to amend, update, adjust or otherwise change these terms and conditions at any time although we shall endeavour that any form of T&Cs signed at a project's inception shall not be amended without the agreement of all other contracting parties. The terms and conditions agreed to between the client and us shall be the valid terms and conditions for the contract even if we at a later date amend our terms and conditions.

General Methodology

- 5) All work we perform shall be carried out in accordance with CDM (Construction Design and Management) Regulations, the Building Regulations and where applicable BSI British Standards or Eurocodes.
- 6) Documents and calculations produced by us, when manually performed, will mainly be produced in compliance with the British Standards (5950, 8110, 5628, 5268, 8666, 8002, 8004, 6399, 648 etc.). We do however utilise automated calculation systems (FEM, FEA, CFD) which utilises a Eurocode methodology. EU Eurocodes officially superseded British Standards in 2010 but are still widely accepted by building control service

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providers. If it is required we adhere strictly to Eurcode recommendations and/or guidelines this must be agreed in advance of the project being undertaken. In lieu of standard, guideline or regulation, in case of need, we shall perform calculations based upon mathematical, physical and structural engineering principles.

- 7) We shall communicate with the client in order we can glean a thorough understanding of the client's concept.
- 8) We shall endeavour to discover and ascertain as much information as is required about the concept in order a full examination of the engineering aspects of the concept can be performed. The best way we can do this is generally by a site visit during which we may ask to take measurements, photographs, make sketches or take other forms of notes which can assist in our discovery. In any case we shall arrange any and all site visits to occur at a time which is mutually convenient to all parties involved.
- 9) If Architectural plans are available it is sometimes useful, in conjunction with a site visit, for us to have these to hand and to this end we may request a copy of the Architect's plans.
- 10) We shall perform calculations and produce drawings with details sufficient to enable works which we have calculated for to be completed. In some cases we may include the proviso "*All measurements to be confirmed on site*" either upon drawings or in other documentation in which case we accept no liability for items referred to which are included in the finished works and have not been confirmed on site by a building contractor or some other competent person.
- 11) In any case when this proviso is included we shall be available to either amend drawings or other documentation and to furnish the client with a revised drawing or document based upon confirmed measurements supplied to us by the client or agent of the client or made by us on a subsequent visit to site. In the former case, we shall not be liable for any inaccuracies in measurements furnished to us although we remain fully liable for any errors in measurement(s) we perform and include in any drawing or document.
- 12) We may, if the need arises due to specialist consultancy requirements, offer advice or refer the client to another specialist or consultant in order the requirements of the client can be fulfilled. In this case the client shall be made aware that such specialist or other consultant shall charge fees for their services. Although we may make a referral, the client is under no obligation to act upon such referral except in so far as we will record such referral has been made. The client remains free at all times to decide with whom they shall conduct any and all of their business and contractual relations.
- 13) Although we endeavour to fulfil and satisfy every aspect of the client's concept it may come to pass that in order for safe, effective and efficient or simply by virtue of physical possibilities, we need to negotiate with the client alterations to the project. In every case when this may occur we shall make every effort to accommodate the client's wishes but it may be, with regret, we must (for the sake of safety, legality or some other thing beyond our control) make an alteration to the client's concept which although undesirable is necessary.

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Sufficiency of Scope and Detail of Work

- 14) If at any time Building Control or any other relevant agency requests further information from us in respect of work we have performed on behalf of the client we shall, if such request is reasonable, provide the requested information or detail free of charge on behalf of the client.
- 15) If any builder, contractor or other agent of the client makes request of us to furnish them with information in regard of the work we have performed, or are performing, we shall provide such information as we can reasonably be expected to and do so as if the requesting party were party to the Contract between us and the Client and hence do so at no additional cost.
- 16) However, if such request is beyond the original scope of the work we were requested to perform then fees in consideration of the quantity of extra work we are requested to perform may be charged, albeit at a discounted rate dependant upon the prevalent circumstances in relation to the contract and work.
- 17) We shall not accept liability for any work carried out on site which is not pursuant to calculations or details we provide in accordance with our contract with the client. Hence any further work requested of us to calculate detail or otherwise prove, for official or none-official purposes, work which is carried out either none pursuant with or in addition to that which we were contracted shall be subject to fees further to those quoted or invoiced for the original contract and any agreed amendments to it.

Party Walls.

- 18) Where work we contract with the client to perform could affect party walls it is the liability of the client to ensure they know their rights, obligations and liabilities in respect of such party wall.

Variations in the project and work

- 19) In the case of circumstantial realities which either were unforeseeable and/or are in any case contrary or otherwise different to any assumptions made by us, the client or any agent of the client or any other person who is proximal to the contract and provides information to us in regard of the work, we shall negotiate with the client in order to remedy the situation in order to provide documentation which is reflective of the reality. In such cases, dependant upon the scale of the differences and the source of the error in assumption or other data, we may request extra fees for such work. However, if the assumption was made by us and we could be reasonably expected to have made more accurate assumptions, no fee will be charged for revising and re-issuing calculations, drawings and other documents.
- 20) It is imperative that any assumptions made by any person involved in the works are verified and the reality ascertained (if possible) at the earliest opportunity, either by investigations of the site or works by a builder or other tradesperson, us or the client. It is

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also imperative that any differences between assumptions made and the reality are brought to the attention of us at the earliest opportunity in order we can validate and if needs be re-issue documentation and provide accurate instructions, drawings and other documentation. Parties to the contract are requested to bear this point in mind; any variations not recorded, or assumptions not verified and amendments made could result in problems relating to Insurances and in the event could lead to dangerous scenarios arising as work progresses or is finished.

Compliance, Insurance and Quality of Workmanship

- 21) We recognise the work we perform can sometimes be high risk and hazards in the event of accident can be catastrophic, devastating or life threatening. Our philosophy is such that we carry Insurance in order to fulfil a number of criteria on our own behalf but also on our clients' behalf. Structural renovations, modifications or extensions can lead to changes to the terms of Buildings Insurance and require the Structural Engineer carries Professional Indemnity Insurance in order the Insurance Companies can spread their risk. To this end we carry PI and we shall furnish the Client with details of our insurances in order they can, if requested, provide their insurers with the same.
- 22) We disclaim against any and all work carried out in accordance with calculations, details, advice or any other thing we furnish to the Client or agents where any fault arises which is a consequence of inadequate, unskilled, inattentive or otherwise arising from a standard of workmanship which was not fit for purpose or of the proper merchantable quality.
- 23) We shall also be available at any time during progress of works upon the request of the client attend the site in order to view the work in progress and make any subsequent arrangements or orders as are necessary.
- 24) We may at any time during progress of works request the client allows us access to the site in order to view the work in progress and make any subsequent arrangements or orders as are necessary.
- 25) If at any time and having viewed the site and work in progress we ascertain work is not progressing to a quality or style as is necessary in order to meet requirements specified in our documentation, we may order the work or quality of work be altered, or in the event stopped in order the work can, upon recommencement in such case, be finished to the quality and standard required.

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Certificate of Partial Completion

- 26) If requested by the client we will at any significant stage of the progress of work on site, upon a visit and inspection of the site agreed between the client and us, issue certificates to state that significant parts of the work have been completed to a standard of quality which satisfies us (Certificate of Partial Completion). If we have been sufficiently kept aware and are satisfied that progress of work on site relevant to our involvement in the project has been completed to our satisfaction we shall, upon request, issue a Certificate of Completion. Fees may be chargeable for these items dependant upon the nature, scope and/or complexity of the investigations.
- 27) If such certification is requested by the client or agent of the client and we, stating reasonable grounds, refuse to issue any certificate then work must not continue and we may issue a notice to make rectification to work. In this case, if work continues without the rectification having been made, we will accept no liability for any of the work to which such notice applies. Please note the client is in no way, either by contract or by statute, obligated to request such certification. Please also note that we may refuse to issue any certificate on the simple basis that we can not ascertain if the quality of workmanship is sufficient to satisfy us. Pursuant to this, if the client would like us to witness or assist in any part of the work, provided it is agreeable with all parties engaged in the contract, we shall be happy to attend. Fees may be chargeable.

Ground Conditions Assumptions

- 28) In design of foundations we shall endeavour to draw upon our experience, our communication and networking with other experienced, specialist and/or professional people, information from the BGS (British Geological Survey) and if necessary we may recommend either a specialist consultant is contracted or a survey of the ground conditions (site investigation) is conducted.
- 29) If we do not make recommendations under clause 28 we shall proceed on the basis of assumptions of typical ground conditions (eg, soft clay, loose sand, medium dense sand or other ground condition as described in table 1 of BS8004:1986, Code of practise for foundations). It is the responsibility of your Building Control Officer to inspect the ground conditions prior to the commencement of work. For larger projects (e.g. new-build developments) a site investigation may be advisable prior to instruction. Unless specifically noted, our initial engagement in the project does not include "engineered" e.g. piled or raft type foundations; it includes our designing spread type foundations only.

Fees

- 30) From time to time we may contract to provide service for a pre-arranged sum, subject to a quotation, an estimated sum or on the basis of invoicing for work and services provided after the work, or part of the work is completed. Various clauses in these terms and conditions make reference to fees which may be chargeable or waived in whole or part subject to various circumstances which may arise as our engagement in the project progresses.

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31) We do not have an exhaustive list of circumstances relating to fees but our general philosophy is that information we have and are requested to pass on is not chargeable, work we need to complete in order to fulfil requests made by authorities (including the client's satisfaction) is non chargeable if it serves to fill a gap in work we have already provided conclusions for. Although in general we do not charge a standard call out fee we may, especially if the site is not local to our office, charge for time spent on site visits.

Payments

32) Invoices are generally provided with a 7 day payment term.

33) Payment methods shall be stated on the invoice and although the preferable mode is by bank transfer, we may accept cash or cheques. We do not accept payment by postal orders.

34) We shall endeavour to provide a receipt for all payments made within 7 days of receipt of payment.

GDPR (General Data Protection Regulation)

35) Notwithsatnding any other clause of these terms and conditions, any and all information we hold in regard of the client(s), their property or any other thing in regard of the client shall be held on record by us in a secure form in order that

36) accurate records can be held in case of future need including but not limited to the surrendering of documents for insurance purposes, for claims which may be pursued or for the client to satisfy requests made of them by their Insurers or any other person who may reasonably and lawfully make such request to surrender documentation which we can reasonably be expected to keep on record.

37) complete documentation of work performed and any instruction or other aspect of business in relation to the client can be recorded and made adjunct to blueprints.

38) No information in any form shall be passed by us to any other person, body or organisation of persons unless such passage of information is either agreed to by the client, agent of the client, or some other person making a reasonable request and/or it is strictly required by English Law. In any event, unless strictly required by Law, we shall not disclose personal information to any other party without your expressed permission.

39) At any time upon request made of us by the client, legal agent of the client or any other legally appointed person, the full record (or any part of the full record) of information we hold in regard of the client and the work performed on behalf of the client shall be communicated to the client or agent of the client in any format reasonably requested of us.

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Applicable Law

40) At all times these terms and conditions shall be subject to English Law, especially the English Law relating to Contracts and the Unfair Contract Terms Act of 1977 (including subsequent amendments thereto).

Complaints

41) Initially we request that any complaints are directed to us via email or any other form or recorded communication e.g. SMS with the heading of the mail or message including the word “complaint”. We shall strive to ensure any complaints are dealt with in a professional and timely manner.

42) You can also take up any complaints with our insurers, contact details of whom are included on documents we shall furnish the client with.

43) Further, you can make complaints to any other relevant authority including but not limited to; the Police, your solicitor, the Citizens Advice Bureau or any of the Professional Institutions or Bodies specific to Engineering Professionals (ICE – Institute of Civil Engineers, IStructE – Institute of Structural Engineers, ACE – Association for Consultancy and Engineering, ECUK – Engineering Council UK and others).

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