

# **Building Control Management Consultancy Terms and Conditions**

- 0.1 Building Control Management Consultancy Ltd" is also referred to as "BCMC", "BCM". "Building Control Management", or "Building Control Approver".
- 0.2 "You", "Your" and "Your Business" refers to anyone using BCMC's services, products or intellectual property (either paid or for free; with or without permission), or anyone requesting more information on behalf of a business, themselves, an individual or themselves. For additional information for the BCMC website, which works in tandem with these terms and agreements, as well as the Terms of Use and Private Policy.
- 0.3 These terms and conditions must be accepted in full in order to use BCMC's services unless expressly agreed. If any of these terms and conditions are not accepted a declaration must be as soon as possible, with an additional statement being made in writing (stating clearly what points are not accepted) if not done initially. Retroactive withdrawal or adjustment of consent is to be considered breach of contract without the express written permission of BCMC.
- 0.4 This document is to be the main reference point for Terms and Conditions, and supersedes any other document unless it is explicitly stated that is not the case. This includes any summary terms and conditions, which requires acceptance of this full version.
- 0.5 This document may be varied with permission from all parties involved. If an addition project is undertaken, then the newest version of the terms and conditions will be accepted, overriding any other version.

## **1. Definitions**

- 1.1. In this Contract (unless the context otherwise requires):
- 1.1.1. **"Additional Work"** means any additional or varied services which are not already covered by the Services and which are instructed by the Client and agreed by the Building Control Approver.
- 1.1.2. **"Building Act"** means the Building Act 1984 as amended by the Building Safety Act.
- 1.1.3. **"Building Safety Act"** means the Building Safety Act 2022, including the Secondary Legislation.
- 1.1.4. **"BSR"** means the Building Safety Regulator under the Building Safety Act.
- 1.1.5. **"Building Regulations"** means the building regulations made under the Building Act, including the Building Regulations 2010.
- 1.1.6. **"Consumer"** means an individual acting for a purpose which is wholly or mainly outside that individual's trade, business, craft or profession.

- 1.1.7. **"Defence Costs"** means all costs and expenses (other than costs incurred in connection with dishonesty and fraud) which are incurred by the Building Control Approver (with prior written consent of its insurer) or its insurer in connection with the defence, investigation or settlement of any claim made against the Building Control Approver and notified under its insurance policy and in connection with any circumstances which might give rise to a claim.
- 1.1.8. **"Fee"** means the total amount to be paid to the Building Control Approver for the Services as specified in item E of the Contract Details.
- 1.1.9. **"Final Certificate"** means a certificate in accordance with Section 51 of the Building Act.
- 1.1.10. **"Fire Safety Claims"** means any claim, Defence Costs or claimant's costs and expense directly or indirectly arising out of or in any way connected to:
- The combustibility, fire protection performance, fire resistance or fire-retardant characteristics of any external cladding or roofing systems; and/or
  - Any internal fire protection systems; and/or
  - Any aspect of the fire safety or fire performance of a building or structure.
- 1.1.11. **"Force Majeure"** means any event outside of the Building Control Approver's control, including without limitation, war, terrorism, sanctions, prohibitions or restrictions under any laws or regulations (including any trade or economic sanction laws or regulations), acts of God, flood, drought, earthquake or other natural disaster, and any epidemic or pandemic, including any consequences thereof. It also includes illness, injury or death preventing or delaying the process.
- 1.1.12. **"HRB Work"** means higher risk building work as defined under the Building Act and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 as such definition may be amended from time to time.
- 1.1.13. **"Initial Notice"** means an initial notice to the relevant local authority notifying them of the Project under Section 47 of the Building Act.
- 1.1.14. **"Insolvent"** means as defined in section 113, Housing Grants, Construction and Regeneration Act 1996.
- 1.1.15. **"Professional Conduct Rules"** means the Professional Conduct Rules for Registered Building Control Approvers and the Health and Safety Executive's Building Control Professional Codes and Standards.
- 1.1.16. **"Professional Team"** means any other party appointed by or to be appointed by the Client in addition to the Building Control Approver to provide services and/or works in relation to the Project.

1.1.17. **"Relevant Event"** means:

- any change in any law, order, rules, regulations, codes of practice and/or decisions of a government body (including changes required as a result of and/or in relation to the Building Safety Act and/or any consequences thereof), and/or
- the UK no longer being a member state of the EU (including the continuing consequences of the UK having left the EU), and/or any trade agreement between the UK and any country being entered into, abandoned, or delayed.

1.1.18. **"Secondary Legislation"** means the secondary legislation enacted under the Building Safety Act, including, but not limited to, The Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023, the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 and the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

1.1.19. **"Services"** means the services described in item H of the Contract Details.

1.1.20. **"Statutory Functions"** means the duties of a Building Control Approver under the Building Act, the Building Safety Act and any regulations made under these Acts and formal guidelines issued by a government department.

## **2. Building Control Approver's general obligations**

2.1. The Building Control Approver shall carry out the Services and any Additional Work using reasonable skill, care and diligence in accordance with this Contract. Notwithstanding any other provision of this Contract: (i) the Building Control Approver shall have no greater obligation under or in connection with this Contract than to exercise reasonable skill, care and diligence and (ii) nothing in this Contract or otherwise shall impose any obligation, warranty or guarantee (whether express or implied) on or from the Building Control Approver that the Services and/or any Additional Work shall be suitable or fit for any specified purpose.

2.2. The Building Control Approver shall exercise the standard of skill and care required by clause 2.1 in performing the Services and any Additional Work to have due regard to the Professional Conduct Rules and where possible to any programme for the Project (as amended from time to time and provided to the Building Control Approver in writing).

2.3. The Building Control Approver shall have no responsibility and/or liability under or in connection with this Contract for the performance and/or the supervision of any member(s) of the Professional Team in relation to the Project and the Building Control Approver shall have no responsibility and/or liability in respect of quality control of the works.

- 2.4. The Building Control Approver shall have no responsibility and/or liability for any failure by the Client or any member(s) of the Professional Team to comply with their obligations under the Building Safety Act. Any delay arising as a result of such failure shall entitle the Building Control Approver to an additional fee and extension of time in accordance with clause 4.5.
- 2.5. The Building Control Approver is not liable for any building work performed. The completing of an inspection and/or the granting of approval completion certificate is not a guarantee that the project has been completed correctly by the Professional Team, only that there is sufficient evidence that it meets regulation standard. No building inspector can provide such a guarantee.
- 2.6. Where, prior to the date of this Contract, the Client had previously appointed a party to undertake services the same or substantially similar to the Services in respect of the Project, the Client shall provide (or procure that others in the Professional Team provide) prior to commencement of the Services such information, designs and materials previously prepared or provided by the relevant party to the Building Safety Approver as required for the Building Safety Approver to perform the Services. The Building Control Approver shall be entitled to rely on any information, designs, reports or other materials provided to it by or on behalf of the Client (whether or not the same was prepared by or on behalf of the Client).
- 2.7. The Building Control Approver shall not be responsible and/or liable for (i) the use of any information, and/or (ii) any inaccuracy, discrepancy, errors, or omissions contained in any materials and/or information, provided to the Building Control Approver pursuant to clause 2.5.
- 2.8. The Building Control Approver shall take such steps as are reasonable to enable it to determine that a Final Certificate can be issued, and if so determined, it shall issue a Final Certificate. Any Final Certificate is based on the information and documents provided to the Building Control Approver by the Client and the Services and Additional Work performed and is not a representation that every aspect of the Project complies with the Building Regulations and/or conclusive proof of the Project's compliance with the Building Regulations.
- 2.9. The Building Control Approver shall not be responsible and/or liable to any party under or in connection with this Contract for any delay in issuing the Final Certificate and shall not be responsible and/or liable for any additional fees that are payable to the relevant local authority and/or any other costs, as a result of the Building Control Approver being unable to issue a Final Certificate at any time.

### **3. Client's information and obligations**

- 3.1. The Client shall provide, or procure that other duty holders under the Building Safety Act provide, such information, documents, assistance and approvals as the Building Control Approver reasonably requires or requests from time to time in order to facilitate the timely provision of the Services and any Additional Work and to allow the Building Control Approver to comply with its obligations under the Building Safety Act.

- 3.2. The Client shall be responsible for safe access to the Project being provided when the Building Control Approver reasonably requires it and shall procure such access and certification from any consultant, contractor or sub-contractor as is reasonably requested by the Building Control Approver.
- 3.3. The Client shall give the Building Control Approver not less than 7 days' written notice before any works forming part of the Project are commenced and shall keep the Building Control Approver regularly informed of the progress of the Project. The Client shall give advance written notice to the Building Control Approver at any stage at which an inspection by the Building Control Approver is required.
- 3.4. The Client shall provide in a timely manner drawings and specifications including Site and block plans at not less than 1:1250 scale, showing all public services on or within 6 metres of the boundaries, and in sufficient detail to facilitate the proper serving of the Initial Notice and other legal documents as may be necessary.
- 3.5. The Client shall ensure that the details completed in sections 1, 2 and 3 of the Initial Notice are correct before signing (and/or arranging for it to be signed) and returning it to the Building Control Approver for submission to the relevant local authority. The Client shall ensure the Initial Notice is returned to the Building Control Approver in sufficient time so that it can be submitted to the relevant local authority not less than 5 working days before works commence on Site.
- 3.6. The Client shall be entirely responsible for the design, construction and management of the Project.
- 3.7. The Client shall be entirely responsible for obtaining and implementing all necessary permits, licences, consents and approvals, unless the Parties have otherwise agreed in writing and provided always that the obtaining and implementing of any necessary permits, licences, consents and approvals by the Building Control Approver shall be deemed Additional Work for the purposes of this Contract.
- 3.8. The Client and not the Building Control Approver shall be responsible for the Project's compliance with the Building Regulations. The Services do not include and the Building Control Approver is not responsible for i) confirming whether the Building Regulations have been complied with, and/or ii) advising the Client and/or managing the Project to ensure that compliance with the Building Regulations is achieved.
- 3.9. The Client shall notify the Building Control Approver immediately if it does not consider itself to be, or ceases to be, the person carrying out the works for the purposes of the Building Regulations and will confirm the identity of the person carrying out the works to the Building Control Approver. The Client will procure the necessary consents and approvals from any other person carrying out the works in a timely manner to enable the Building Control Approver to perform the Services and any Additional Work.

#### **4. Fee**

- 4.1. The Client shall pay the Building Control Approver the agreed Fee for the Services together with any additional fees incurred pursuant to this clause 4 and any expenses, disbursements and charges, as set by the contract.
- 4.2. The Building Control Approver shall invoice the Client in accordance with the Instalment Payments specified in item G of the Contract Details.
- 4.3. The sum stated as being due in the Building Control Approver's invoice shall be paid by the Client to the Building Control Approver within 28 days from the date of the Building Control Approver's invoice.
- 4.4. The Building Control Approver shall be entitled on an annual basis to review and revise, in accordance with the Office of National Statistics Consumer Prices Index, its rates set out in item E of the Contract Details or, if none are stated, the Building Control Approver's standard rates applicable at the relevant time. The Fee and any additional fee shall be calculated in accordance with the rates as revised under this clause and the Building Control Approver shall be paid in accordance with such revised rates and Fee.
- 4.5. Where the Client instructs the Building Control Approver to undertake Additional Work, the Client shall pay the Building Control Approver on a time charge basis for undertaking the Additional Work, at the rates set out in item D of the Contract Details and the Building Control Approver shall be entitled to a fair and reasonable adjustment to the programme for performing the Additional Work. The Building Control Approver may charge before any Additional Work has been performed.
- 4.6. Notwithstanding the foregoing, if, as a result of (i) a Relevant Event, and/or (ii) any Force Majeure, Additional Work is performed and/or costs incurred, and/or (iii) there are changes in the timing or programming of the Services and/or Additional Work and/or (iv) if the Building Control Approver is delayed, disrupted, or prolonged in all cases for reasons other than the Building Control Approver's default, then the Client shall pay the Building Control Approver on a time charge basis for the Additional Work undertaken by the Building Control Approver as a result of the Relevant Event and/or Force Majeure and/or change in the timing or programming of the Services and/or as a result of any delay, disruption or prolongation, at the rates set out in item E of the Contract Details and the Building Control Approver shall be entitled to a fair and reasonable adjustment to the programme.

- 4.7. The Building Control Approver shall not be in breach of this Contract and shall have no liability under or in connection with this Contract as a result of (i) any act, omission, or default, (ii) any failure to perform the Services and/or Additional Work in accordance with this Contract (iii) any prolongation or delay to the Services and/or Additional Work, and/or (iv) any termination of the Building Control Approver's appointment under this Contract, to the extent that any of the preceding is caused or contributed to by any Relevant Event and/or Force Majeure, and/or (v) circumstances making completing this contract impossible to complete, including injury, illness or death.

## **5. Intellectual property**

- 5.1. The intellectual property rights in all documents produced and/or prepared by the Building Control Approver under or in connection with this Contract (the "**Documents**") shall vest or remain vested in the Building Control Approver. Subject to payment in full by the Client of all sums owed to the Building Control Approver under this Contract, the Building Control Approver grants to the Client an irrevocable, non-exclusive, royalty free licence to copy and use the Documents for any purpose related to the Project.
- 5.2. The Building Control Approver shall not be liable for any use of any of the Documents for any purpose other than that for which they were prepared and provided by the Building Control Approver.

## **6. Insurance**

- 6.1. The Building Control Approver shall, provided it is available at commercially reasonable rates and on commercially reasonable terms, maintain professional indemnity insurance with such aggregate limit of indemnity as is sufficient to cover its liability under this Contract, subject to any limitations, exceptions and/or exclusions from cover as are commonly included in professional indemnity insurance and public liability insurance policies.

## **7. Limit on liability**

- 7.1. Nothing in this clause 7 shall limit the Building Control Approver's liability for direct negligence resulting in death or personal injury.
- 7.2. Notwithstanding anything to the contrary contained in this Contract and without prejudice to any other provision of this Contract whereby the Building Control Approver's liability is excluded or limited to a lesser amount, the Building Control Approver's total aggregate liability (including, without limitation, legal costs and interest) under or in connection with this Contract, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, shall be limited to up to 10 times the cost of the project up to total of £200,000.

- 7.3. Subject to clause 7.2, the Building Control Approver's liability (including, without limitation, legal costs and interest) under or in connection with this Contract in respect of Fire Safety Claims shall be limited to the amount, if any, recoverable by the Building Control Approver by way of indemnity against the Fire Safety Claim in question under the Building Control Approver's professional indemnity insurance policy in force at the time that the Fire Safety Claim is notified.
- 7.4. The Building Control Approver shall have no liability whatsoever and however so arising out of or in connection with war, civil disorder, terrorism, mould, spores, asbestos, pollution, pandemic and/or contamination and any fitness for purpose requirement in relation to the Project.
- 7.5. The Building Control Approver's liability to the Client under or in connection with this Contract shall not exceed such sum as it would be just and equitable for the Building Control Approver to pay having regard to the extent of the Building Control Approver's responsibility for the loss and/or damage and on the assumption that all members of the Professional Team and/or other persons involved in the Project have paid to the Client such sums as it would be just and equitable for them to pay.
- 7.6. Without prejudice to any shorter statutory limitation period, no action, claim or proceedings arising out of or in connection with this Contract (howsoever arising) shall be commenced and the Building Control Approver shall have no liability for a claim arising out of or in connection with this Contract (howsoever arising) after the expiry of six years from the date of completion of the Services or the termination of this Contract, whichever is earlier.

## **8. Cancellation, suspension and termination**

- 8.1. In the event that any sum is not paid by the Client to the Building Control Approver in accordance with clause 4 the Building Control Approver shall be entitled to:
- Suspend performance of all or any part of the Services by giving not less than 7 days' notice in writing to the Client; and/or
  - Terminate this Contract immediately by notice in the event the Client has not paid any sums due and outstanding to the Building Control Approver in accordance with clause 4 within 30 days of written notice from the Building Control Approver requiring such sums to be paid.
- 8.2. The Client may terminate this Contract forthwith by written notice to the Building Control Approver if:
- The Building Control Approver is in material breach of its obligations under this Contract and has failed to remedy the breach within 28 days of the Client notifying the Building Control Approver of the same; or
  - The Building Control Approver becomes Insolvent;
  - If the Client is willing to forfeit all monies paid and paid the full amount agreed in this contract, unless a subsequent written contract is signed by both parties that clearly states that it overrules this a contract.



8.3. The Building Control Approver may terminate this Contract forthwith by written notice to the Client if:

- The Client is in breach of its obligations under this Contract and has failed to remedy the breach within 28 days of the Building Control Approver notifying the Client of the same;
- The Building Control Approver is prevented or impeded in performing the Services as a result of (i) Force Majeure and/or (ii) any changes and/or amendments to laws, orders, rules, regulations, codes of practice and/or decisions of a government body (including any changes required as a result of and/or in relation to the Building Regulations, the Building Act and the Building Safety Act);
- The Client becomes Insolvent;
- The Building Control Approver reasonably believes that it will not be in a position to issue a Final Certificate;
- The Building Control Approver considers that there is a conflict between its obligations under this Contract and the Statutory Functions;
- The Building Control Approver considers that it is necessary to cancel the Initial Notice under Section 52(1) of the Building Act;
- The Building Control Approver is unable to maintain professional indemnity insurance and/or public liability insurance in accordance with clause 6.1;
- The BSR suspends, terminates or places restrictions on the Building Control Approver's registration which prevent the Building Control Approver from carrying out the Services or from undertaking any Additional Work instructed pursuant to clause 4.5;
- Illness, injury or death leaves the Building Control Approver with no personal capable of performing inspections; and/or
- The Project constitutes or involves HRB Work without expressly stating so.

8.4. If this Contract has been terminated, the Client shall pay to the Building Control Approver all sums owed under this Contract in respect of Services and/or Additional Work carried out up to the date of termination and not previously paid to the Building Control Approver by the Client at the date of termination along with any costs or expenses incurred by the Building Control Approver as a result of termination where the Contract is terminated in accordance with clauses 8.1 and/or 8.3, unless caused by the inability of the Building Control Approver to complete the task

8.5. If termination is caused by the inability of the Building Control Approver to complete the task, money will be returned based on performance completed. A completion certificate being issued is equivalent to 100% of the work completed; Final inspection is 95%; Foundation inspection is 70%; Plan checking is 50%.

8.6. All parties have the right to cancel within 14 days of signing a contract or until work has commenced, whichever is first.

- 8.7. The Approved Inspector may cancel the contract after visiting if they believe that false information, an unexpected issue or an omission has misled them to the nature of the work.

## **9. Rights of third parties**

- 9.1. A person who is not a party to this Contract may not by virtue of the Contracts (Rights of Third Parties) Act 1999 enforce any of its terms.
- 9.2. It is agreed and acknowledged that the Building Control Approver shall not be required to enter into any collateral warranties with any third parties, provide any letters of reliance and/or grant any rights to any third parties under or in connection with this Contract.
- 9.3. The Building Control Approver shall not be required to comply with any agreement between the Client and any third party and the Building Control Approver shall have no obligations and/or liabilities arising out of or in connection with any agreement between the Client and any third party.

## **10. General**

- 10.1. This Contract is governed by the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction.
- 10.2. This Contract constitutes the entire agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to or connected with this Contract and/or the Services (whether oral or in writing).
- 10.3. Where the Client is a Consumer, the Client shall have the right to cancel this Contract for any reason by sending the Building Control Approver notice of cancellation in the form set out in Part 3 of this Contract within 14 days of the date this Contract takes effect. If the Client has instructed the Building Control Approver to perform Services and/or Additional Work at any time before the expiry of the 14-day period provided for in this clause, the Client shall pay the Building Control Approver any Fee and/or any expenses incurred up to the date the Building Control Approver received the notice of cancellation of the Contract.
- 10.4. The Client and the Building Control Approver can give notice to each other in writing under this Contract by personal delivery. They can also give notice by post, in which case delivery is effective two working days after posting. Notices must be sent to the address notified by the other party.
- 10.5. If the Client is not satisfied with the Building Control Approver's performance of the Services or any Additional Work, it may ask the Building Control Approver to implement the Building Control Approver's complaints handling procedure. The Building Control Approver shall provide a copy of the procedure on request.

10.6. The Client and the Building Control Approver 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. Subject to clause 7.6, either Party may, at any time, commence court proceedings to resolve any dispute.

## **11. Pricing**

11.1 Payment should be made in full within 30 days of the contract being agreed upon. A deposit may be required that will be subtracted from the final invoice bill. Payment plans may be agreed to, with each payment expected on the 01<sup>st</sup> of each month until it is fully paid off (unless otherwise agreed). If *BCMC* provides a grace period on payment this does not affect these terms and conditions: payment would still be expected at either the agreed date (or, if no date was agreed) the following 01<sup>st</sup> of each month until paid).

11.2 Payments become late after 60 days of the contract or invoice payment date being agreed to. If multiple payments (i.e.: monthly instalments) are being made, each individual payment will be subject to the charges seen in section 21 and 22. This, as with other fees and charges, can be waived at *Oakmoor Employment Consultancy's* discretion without affecting their rights.

11.3 Late payments will result in an addition charge of £40 for payments under £999.99 and £70 for payments over £1000, or to the higher amount as set out in legislation. Additionally, as stated in section 11.2 each late payment will be subject to these charges unless waived at *Oakmoor Employment Consultancy's* discretion.

11.4 Failure to pay after 60 days may result in breach of contract, allowing *BCMC* to claim compensation as per section 4.

11.5 Late payments will also result in an additional charge for interest. This is set at 8% plus the Bank of England base rate, calculated by the invoice amount and added on per day. This is the statutory amount.

11.6 Failure to pay will result in action being taken in the small claims court. All court expenses related to this claim will be added to the total claim for damages.

11.7 *BCMC* charges a default rate of £120 per hour for extra work outside of the agreed contract. This may be altered by the contract itself, at which point that takes precedence.

## **12. Use Of Documents, Policies And Standard Operating Procedures**

12.1 All documents, policies and standard operating procedures (SOP's) are copyrighted and may not be refused, transferred, reproduced, traded or sold without express written consent.

12.2 *BCMC* provides no liability or responsibility for the use of any documents, policies or standard operating procedures by *You* or *Your* organisation. Any potential errors or omissions are taken at *Your* own risk.

## **13. INFLATION AND PRICE INCREASES**

13.1 *BCMC* reserves the right to increase prices in line with inflation (as set by the Bank of England) for existing customers on direct debits or standing orders, or at any point at any price for non-customers.

Valid from 01/02/2026

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