



Terms of Business

These are the terms upon which iTango Building & Asset Consulting LLP (registered no OC422405), trading as Office Solve, agree to act for you. The entity with which you have engaged will be noted on our letterheads, email footers and invoices that are sent to you. If you are at all unsure as to with which entity you have engaged, please contact us and we will confirm the same. Our agreement takes effect from the date we agree to accept your instructions, but these terms will apply from the date we provide you with a copy of them.

1. DEFINITIONS AND INTERPRETATIONS

1.0 Terms means the terms of business set out in this document and include any other terms and conditions set out or referred to in our Instruction Letter. These Terms apply to all services that you instruct us to provide and cannot be varied or amended except in writing and signed by you and us.

1.1 Client (referred to throughout as 'you') means the person, company, firm or other legal entity named in our Instruction Letter. We will not accept instructions to act for any other legal entity nor will these Terms apply unless we have agreed in writing to act for that alternative entity. We reserve the right to refuse to act for such an alternative entity until (if at all) we have undertaken due diligence to fulfil our internal credit, money laundering and risk obligations. In the event that we are instructed to act for a single purpose corporate vehicle we reserve the right to require and be provided with a parent company or other guarantee for our fees before accepting instructions to act. In the case of the sale of a Property by a corporate client in which the shares in such client are the assets transferring we will require the shareholders of such corporate client to guarantee its obligations to us.

1.2 iTango Entity means any entity owned or controlled by iTango Building & Asset Consulting LLP or by any of its members or owned or controlled by any other iTango Entity.

1.3 iTango Building & Asset Consulting LLP (referred to throughout as "iTango" "we" or "us") is the trading name of iTango Building & Asset Consulting LLP.

1.4 Confidential Information means information that is by its nature confidential and/or is designated by us to be confidential.

1.5 Instruction Letter means the letter of instruction, proposal or tender which is sent to you with these Terms. In the event that there is any conflict between the terms set out in this document and the terms set out in the Instruction Letter the terms in the Instruction Letter shall take precedence.

1.6 The Property means the assets (including shares in a company) which are the subject of our instructions and all other assets in which an interest is acquired by a purchaser including contents fixtures and fittings and any business carried on at the Property.

1.7 Purchaser includes a tenant, licensee or member.

1.8 Seller includes a landlord, licensor or operator.

Services means the specific services set out in the Instruction Letter and any other services which we agree in writing to provide.

Sole Selling Rights – Unless specified to the contrary in the Instruction Letter by instructing us to dispose of and/or acquire (as applicable) the Property you grant us Sole Selling Rights which means that you will be liable to pay remuneration to us, in addition to any other costs or charges agreed, if:

(a) unconditional contracts for the sale and/or lease (as applicable) of the Property are exchanged in the period during which we have Sole Selling Rights even if the purchaser was not found by us but by another agent or by any other person, including you; and

(b) if unconditional contracts for the sale and/or lease (as applicable) of the Property are exchanged after the expiry of the period during which we have Sole Selling Rights but to a purchaser who was introduced to you during that period or with whom we had negotiations about the Property during that period.

2. FEES

2.0 Our fees are as stated in the Instruction Letter.

2.1 Where we agree to act jointly with another professional then the fee payable to us will be an agreed proportion of the total fee due. In the absence of such an agreement we shall be paid in equal proportion to the other professional(s).

Abortive Fees - Unless otherwise agreed in writing if you instruct us to act for you and thereafter the transaction or instruction becomes abortive because you withdraw or you terminate our instructions we shall be entitled to 50% of the fee we would otherwise have received had the matter proceeded to completion.

Whether the transaction or instruction concludes or not the disbursements and expenses referred to in Clause 3.0 below will be payable by you in any event.

In the case of consultancy services an abortive fee will be calculated and payable by you according to our hourly rate at the time for all work done.

2.2 Additional Work - Where we are required to undertake additional work outside the agreed scope of the Services additional charges will be agreed.

2.3 Estimates - Any estimates of fees and disbursements are provided on the basis of the information you provide to us. Such estimates are not therefore binding upon us if the information provided is in any way incomplete, misleading or wrong.

3. DISBURSEMENTS AND EXPENSES

3.0 We will provide you with an estimate of disbursements and expenses prior to incurring them. Such items include but are not limited to travel, advertising and marketing (including 'for sale' and 'to let' boards), in-house mailing, printing, maps, photography, photocopying, library and data services, research, bank references, planning applications and RICS and other regulatory fees.

3.1 Disbursements and expenses may be charged to you as soon as they are ascertained or incurred, whether or not our instruction proceeds to a conclusion.

3.2 You agree to indemnify us against any liability on our part in respect of such disbursements and expenses.

3.3 In all circumstances in which your instructions involve an amount of administration on our part, such as photocopying, faxing etc., we shall be entitled to add an administration charge to our bills to cover such expense.

4. CHARGES DUE

4.0 We will be entitled to issue an invoice and our fees will become due for payment free from any discount, deduction set-off or counter claim:

(i) On the date(s) specified in the Instruction Letter

(ii) When you withdraw your instructions (in which case Clause 2.3 applies).

4.1 In all other cases charges become due on the date that we issue an invoice for the services provided and/or the disbursements and expenses incurred.

4.2 All invoices are payable by you upon delivery to you.

4.3 In the event that we are required to issue proceedings to recover any fees or disbursements and we are successful in such proceedings you agree that you will pay our legal costs of such proceedings even if the amount claimed is less than the limit for small claims cases.

5. TAXES

5.0 The fees disbursements and expenses referred to in these Terms and in the Instruction Letter are all subject to the addition of VAT where applicable (and any other taxes whether UK or overseas which may arise).

5.1 You will comply with the Criminal Finances Act 2017 and ensure that you and your associated persons do not commit or facilitate a tax evasion offence.

6. INTEREST

6.0 Unless otherwise agreed in writing, in default of payment by you within 21 days of delivery of an invoice, interest will be chargeable upon outstanding invoices at the rate of 6% above the Bank of England minimum lending rate from time to time from the date of our invoice until payment.

7. SCOPE OF SERVICES

7.0 We accept no liability for the content or interpretation of title, regulatory documents (such as Energy Performance Certificates) or tenancy documents and unless specifically instructed to report on them we do not warrant that properties on which we advise are in satisfactory structural order; that any land is free from contamination; or that any land or property is compliant with regulations, or that any land or premises has planning permission or is capable of being developed for the purposes for which it may be required.

7.1 We will perform the Services within a reasonable period of time after acceptance of your instructions on the basis that:

(a) Any estimates of the time for performance of the Services are not to be legally binding upon us; and

(b) We shall be entitled (but not obliged) to delegate performance of the Services (or any part of them) by instructing one or more other persons, firms or companies (whether as sub-agent or in any other capacity) upon such terms as we consider appropriate in our absolute discretion.

7.2 We sometimes work with specialists and experts to avoid duplication of work, to keep communication to a minimum and to keep costs down. We use our knowledge and networks to meet your expectations. We will not do so before obtaining your authority.

In such capacities we will quote you a single fee for our services and account to the specialist consultant directly with regard to the distribution of the fee arrangement, which will be according to the time commitment and work share as between this firm and the relevant consultant.

Once you have authorised us to work with our specialist consultants we will be responsible for payment of their fees and matters relating to their performance and competence.

If we are instructed by you to supervise the work of your own appointed specialist consultants we will be entitled to charge an additional fee calculated by reference to the time incurred in doing so however we assume no liability for any advice given to you by such consultants.

7.3 As a general rule we do not enter into dual agency arrangements. This in line with the professional standard and guidance for real estate agency and brokerage as set out in the professional statement prepared by the RICS, 3rd Edition, August 2016.

If you have retained the services of a firm to represent your interests in a manner that is identical or similar to those services described in the letter of appointment then you will need to disclose the basis of that arrangement so that we can clarify and determine the basis of the appointment. Otherwise, we shall assume sole agency and or representation for the appointment described in the accompanying letter of instruction.

7.4 Any market projections incorporated within our Services including but not limited to, income, expenditure, associated growth rates, interest rates, incentives, yields and costs are projections only and may prove to be inaccurate. Accordingly, such market projections should be interpreted as an indicative assessment of potentialities only, as opposed to certainties.

8. INFORMATION PROVIDED

8.0 Unless you inform us in writing to the contrary, we shall not be required to check or approve the accuracy of information provided to us by you or others including Energy Performance Certificates.

8.1 Unless you inform us in writing to the contrary you hereby warrant the accuracy of all information provided to us by you or on your behalf on the basis that you expect us to rely upon it.

8.2 You undertake to indemnify us against all costs, claims, charges and expenses of whatever nature which may arise as a result of any such information proving to be inaccurate (whether wholly or in part) or incomplete.

8.3 Subject only to Clause 12 below any information which we acquire from you in the course of performing instructions may be used by us for any other purpose unless you instruct us in writing at any time prior to such use by us.

9. OUR REPORTS

9.0 In relation to any written report or advice prepared by us you agree that neither the whole nor any part of our report or advice or Confidential Information may be included in any published document, circular or statement or published in any way without our written approval prior to publication.

9.1 Copyright in any reports, documents or other material provided to you by us shall remain our property at all times.

10. PAPERS

10.0 After completing our work, we are entitled to keep all and any of your papers and documents until our fees and charges are paid in full.

10.1 Unless you instruct us to the contrary, you hereby agree that we may destroy papers or documents relating to the Services six years after the date of the final invoice that we send you for the particular matter.

11. E-MAIL

11.0 We shall treat receipt of an e-mail from you as a request to us to communicate with you by e-mail.

11.1 If you intend to communicate with us by e-mail, by accepting these Terms you confirm that you understand the risks of doing so and you authorise us to act upon electronic instructions which have been transmitted (or appear to have been transmitted) by you.

12. DATA PROTECTION

12.0 We will not disclose to any third party any personal data without your express authority to do so.

12.1 You agree that we may receive and retain documentary proof required by the Money Laundering Regulations 2007 and can disclose it to any Government authority that is legally entitled to request it. You further agree and consent to identity checks being carried out electronically for anti-money laundering purposes. For the purposes of this clause only, you release us from our obligations under Clause 12.1 above.

12.2 We may occasionally use your contact details to inform you of property updates, client seminars, and the like. By accepting these terms you consent to our sending you such information. If you do not wish to receive such information, please advise us, by writing to the Data Protection Officer at our address.

13. LIMITATION OF LIABILITY

13.0 In relation to any Services provided by us to you the following limitations apply:

13.1 You agree not to bring any claim for any losses against any member, officer, director, employee or consultant of iTango or any iTango Entity (each an "iTango Person"). You hereby agree that an iTango Person does not have a personal duty of care to you and any claim for losses must be brought against iTango. It is agreed that any iTango Person may enforce this clause under the Contracts (Rights of Third Parties) Act 1999 but that these terms may be varied at any time without the need for them to consent.

13.2 We will not be liable in respect of any of the following:

- (a) for any services outside the scope of the Services agreed to be performed by us;
- (b) to any third party;
- (c) in respect of any consequential losses or loss of profits.
- (d) for any losses, costs, penalties or damages arising from the Energy Performance of Buildings Regulations 2011.

13.0 Where any loss is suffered by you for which we and any other person are jointly and severally liable to you the loss recoverable by you from us shall be limited so as to be in proportion to our relative contribution to the overall fault.

13.1 Our liability for loss and damage attributable to our negligence, breach of contract, misrepresentation or otherwise (but not in respect of fraud, fraudulent misrepresentation, death or personal injury) shall not exceed £250,000 per single originating cause (or if higher, such minimum level of insurance cover as the Royal Institution of Chartered Surveyors requires us to maintain from time to time. This limit applies to each and every transaction and retainer and any subsequent work we undertake for you unless expressly overridden in a subsequent Instruction Letter signed by a director of iTango.

13.6 The exclusions and limitations in this paragraph will not exclude or limit any liability for fraud or dishonesty or for liabilities which cannot lawfully be limited or excluded.

13.7 Where the Instruction Letter is addressed to more than one client, the above limit of liability applies to the aggregate of all claims by all such clients and not separately to each client.

14. INDEMNITIES

14.0 You agree to indemnify us against all costs, claims, charges and expenses which we shall incur by reason of (but not limited to):

- (a) Use of any of our work for purposes other than those agreed by us.
- (b) Misrepresentation by you or with your authority to third parties of advice given by us.
- (c) Misrepresentation to third parties of the extent of our involvement in any particular project.
- (d) Any claims or proceedings concerning Energy Performance Certificates prepared by you or on your behalf.

14.1 You also agree to indemnify us against any and all damages or liability suffered by us, arising from the use by us of material provided by you to us the copyright of which is vested in a third party.

15. ASSIGNMENT

15.0 Neither this agreement nor any of its terms may be assigned by you to any third party unless agreed in writing.

16. TERMINATION OF INSTRUCTIONS

16.0 We may terminate any agreement governed by these Terms immediately by notice in writing:

- (a) Whereas a result of circumstances outside the control of both of us the Services become impossible of performance or;
- (b) Where you have rendered the Services impossible of performance or;
- (c) You have provided incorrect information to us contrary to Clause 8 above upon which we have relied or;
- (d) If you have not made payment by the due date of any sum payable to us or;
- (e) At any time in the event that you are in material breach of your obligations to us or;
- (f) Without assigning any reason and on the basis that

(g) you are under no obligation to pay any fees in respect of the matter and that we are under no obligation to perform any further services.

16.1 You (and if clause 16.1 does not apply we) may terminate any agreement governed by these Terms by giving not less than 28 days' notice in writing. However, if the Instruction Letter states a minimum period for our instruction, notice to terminate may not be given so as to expire before the end of that period.

16.2 On termination of our instructions you will be liable to pay to us any outstanding disbursements and expenses and you will remain liable for any fees arising under Clauses 2, 3 and 5 of these Terms.

16.4 Notwithstanding termination of our agreement with you the provisions of Clauses 1 to 10, 12, 13, 14, 19, 20 and 21 shall remain in full force and effect.

17. MONEY LAUNDERING COMPLIANCE

We are required by law to operate procedures pursuant to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, which may include requesting that you provide us with documentary proof of identity, proof of address and/or proof of funding in relation to a particular transaction or instruction. You agree to comply with any such requests promptly.

18. COMPLAINTS AND INSURANCE

18.0 We operate a procedure for complaints handling as required by the Royal Institution of Chartered Surveyors. A copy is available on request.

18.1 The details of our professional indemnity insurance as set out in the Provision of Services Regulations 2009 can be requested from a member of our staff who is dealing with the Services.

19. LAW AND JURISDICTION

19.0 These terms of business are subject to the laws of England and Wales.

19.1 Any dispute shall be subject to the exclusive jurisdiction of the English Courts.

19.2 If a court rules that any provision of these Terms is invalid or unenforceable this will not affect the validity of the rest of the Terms which will remain in force.

20. RIGHTS OF THIRD PARTIES

Except as set out in clause 13 none of the Terms shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party. No third party will be entitled to rely on any Report or advice except as agreed in writing by us.

21. NON-SOLICITATION

You will not on your own account or in partnership or association with any person, firm, company or organisation, or otherwise and whether directly or indirectly during, or for a period of 12 months from, the end of the term of this agreement, solicit or entice away or attempt to entice away or authorise the taking of such action by any other person, any of our and/or any iTango entity employees, directors, members or consultants who have worked on the Services.

In the event of any breach of this clause, you shall be liable to pay damages of one year's gross remuneration of such employee, director, member or consultant and you agree that this is a reasonable pre-estimate of our loss arising from the breach of this clause.

22. CONFLICTS OF INTEREST

You will inform us immediately if you are or become aware of any potential conflict which affects the Services. We may decline to act for you and/or terminate the Services if we consider that there is a conflict of interest.

This has been approved by the members of iTango Building & Asset Consulting LLP.

Nigel Henley
Designated Member of iTango Building & Asset Consulting LLP
01 January 2020

We accept these terms of engagement as an accurate summary of the instructions to provide the services as described in the covering letter.

DISCLAIMER

"These documents are intended as a general framework only to assist the practitioner in the preparation of its reports and correspondence with the client. The type of report submitted to the client will be described in the covering letter of instruction. Any instruction to prepare a professional report that is intended for the purpose of a valuation or for building surveying purposes will be expressed in the covering letter of instruction. Any other reports that are prepared and are not described as a professional valuation or building surveying report will be estimates for guidance purposes only. If subsequently, the client requires a professional report, then this will need to be requested in writing and confirmed by this firm in a specific written instruction."