



Terms & Conditions & Service Level Agreements

Building Control Services General Terms & Conditions

Part 1 General Terms

1 By signing the Project Information Sheet the Client agrees that:

- (1) BCS (Approved Inspectors) Ltd will act as agent for the Client only for the purposes of signing the Initial Notice.
- (2) The Approved Inspector will provide the services in the Schedule of Services as detailed below.
- (3) The Client appoints the Approved Inspector and the Approved Inspector accepts the appointment for the project.
- (4) The Client shall pay the Approved Inspector the agreed fee within 14 days of the date stated on the relevant invoice(s) unless an alternative agreement is made and confirmed in writing by the Directors prior to service of the Initial Notice.
- (5) The Approved Inspector will maintain an insurance scheme approved by the Department for Communities and Local Government in accordance with the Building Act 1984.
- (6) Written communication by the Approved Inspector will be via electronic communication.
- (7) The liability of the Approved Inspector shall be limited pursuant to Part 2 below.
- (8) The total aggregated limit of the Approved Inspector to the Client referred to in clause 10 below is the sum of .

[NOTE – This is not the fee for our services]

2 Schedule of Services

- (1) BCS (Approved Inspectors) Ltd shall at all times operate within the *Code of Conduct for Approved Inspectors* produced by the *Construction Industry Council*.
- (2) BCS (Approved Inspectors) Ltd shall be responsible for:
 - (a) Serving the Initial Notice on the Local Authority.
 - (b) Reviewing plans and information submitted as part of a building regulation application for compliance with the current relevant Building Regulations requirements.
 - (c) Advising the Client or Client's agent of any additional information required to assess the plans for compliance with the Building Regulations
 - (d) Under Regulation 12 of the Building (Approved Inspectors, etc) Regulations 2010, we will consult with the relevant Fire Authority (where necessary).

- (e) Under Regulation 13 of the Building (Approved Inspectors, etc) Regulations 2010, we will consult with the relevant Water Authority (where necessary).
- (f) Maintaining records of plan appraisals, emails and project information where guidance other than guidance within the Approved Documents is interpreted to consider building regulation approval. Providing a copy throughout the project for the Client, designer, design team or other stakeholder if requested, of relevant information.
- (g) Undertaking site inspections as notified or arranged, of work in progress and at completion to ensure that as far as reasonably possible the works satisfy the Requirements of the Building Regulations.
- (h) Issuing the Final Certificate to the Local Authority and copying to the Client (and fire authority when applicable).

3 Compliance with Building Regulations

- (1) The Client and not the Approved Inspector shall be responsible for the project's compliance with the Building Regulations.
- (2) The services do not include
 - (a) confirming whether the Building Regulations have been complied with, or
 - (b) advising the Client and or managing the project to ensure that compliance with the Building Regulations is achieved.
- (3) The Approved Inspector shall take steps as are reasonable to enable it to determine that a Final Certificate can be issued; if the Approved Inspector makes such determination, it shall issue a Final Certificate.
- (4) A Final Certificate is issued based upon the information provided and the carrying out of the services and is not a representation that every aspect of the project complies with the Building Regulations.
- (5) The Approved Inspector shall not be responsible or liable for any delay in issuing the Final Certificate and shall not be responsible for
 - (a) any additional fees that are payable to the local authority, and or
 - (b) any other costsas a result of the Approved Inspector being unable to issue a Final Certificate at any time.
- (6) The Client shall not, and shall ensure that a third party shall not,
 - (a) take possession of the works forming part of the project, and or
 - (b) issue any certificate of completion or other similar formal documentation in respect of the works forming part of the project unless a Final Certificate has been issued.

4 Fees

- (1) All fees will be invoiced in accordance with the quotation document issued.
- (2) An invoice for the full amount detailed in the quotation document will be issued either upon
 - (a) completion of the Plan Vet, or
 - (b) commencement of works on site, or

- (c) expiry of 90 days beginning on the day the Initial Notice is served on the Local Authority whichever occurs first (unless a prior written agreement has been made).
- (3) All fees stated on the quotation document are exclusive of VAT unless otherwise indicated. VAT will be charged at the relevant rate (currently 20%).
- (4) All fees mentioned within this agreement are exclusive of VAT unless expressly stated to the contrary.
- (5) Invoices must be paid and settled in full within 14 days from the date of invoice.
- (6) Other fees payable to the Approved Inspector must be paid and settled in full within 14 days of from the date of the notification electronic mail.
- (7) Should a Project Information Sheet be completed by a person/organisation that is different to the person who is to be invoiced and pay fees, BCS (AI) Ltd will issue a contract document to that person as instructed. BCS (AI) Ltd reserves the right to pursue the person/organisation for the value of works carried out, should such contract document not be returned or subsequent payment made.
- (8) BCS (AI) Ltd reserves the right to terminate the contract unless all fees including any additional fees have been paid in accordance with these provisions or any other arranged written agreements.
- (9) Fees are exclusive of specific additional administration fees.

5 Additional Fees

- (1) Where an additional fee below is payable to the Approved Inspector
 - (a) the Approved Inspector shall confirm to the Client, Agent or other invoice payer via electronic mail such additional fee(s) payable
 - (b) the sum must be paid pursuant to clause 4(6) above; and
 - (c) any sum specified in this clause, 5, shall be exclusive of VAT.
- (2) Amendment Notice
 - (a) Where an Initial Notice that has been served is required to be amended, a sum of one hundred and twenty five pounds (£125) is payable to the Approved Inspector.
 - (b) If the Approved Inspector is of the opinion that an amendment notice is necessary as a result of a clerical error made by the Approved Inspector, the amendment notice fee shall not be payable.
- (3) Initial Notice extension of time request
 - (a) Where an Initial Notice extension of time request is required to be submitted to the relevant Local Authority, a sum of seventy five pounds (£75) is payable to the Approved Inspector.
 - (b) The Client may opt to not have an extension of time request submitted by the Approved Inspector expressed by way of unequivocal written communication to the Approved Inspector, however the Approved Inspector will be compelled to cancel the initial notice and terminate this agreement upon the expiry of the statutory time period unless the Client makes a further written request to the Approved Inspector for an extension of time to be submitted prior to cancellation.
 - (c) Particular project types and or the circumstances of the project at the time a request is sought might preclude the Approved Inspector from submitting a request to the relevant Local Authority. The Approved Inspector may refuse to submit an Initial Notice extension of time request where it believes at its sole discretion that it is so precluded or otherwise unable to submit such request.
 - (d) The Approved Inspector does not make the decision to grant or refuse any extension of time requests once submitted to the relevant Local Authority; BCS cannot and does not guarantee,

warrant, or make any representation or stipulation as to a particular outcome of a submitted request to the relevant Local Authority.

(4) Additional Plan Check for revised scheme

- (a) Where the Approved Inspector has undertaken a plan check and additional/revised plans are provided to the Approved Inspector for vetting, a fair and reasonable sum
 - (i) of at least one hundred and seventy five (£175) pounds and
 - (ii) not exceeding thirty percent (30%) of the total fee payable to the Approved Inspector is payable to the Approved Inspector.
- (b) The sum shall take into account the nature and complexity of the revised scheme.

(5) Replacement documents

- (a) Replacement copies of archived documents issued by the Approved Inspector can be provided upon request; a sum of forty (£40) pounds is payable to the Approved Inspector for this service.
- (b) Where a current valid Initial Notice is in place covering the works to which the document request relates, the fee shall not be payable to the Approved Inspector.

(6) Non-electronic documents/correspondence

- (a) The Approved Inspector may communicate by paper letters or provide paper copies of electronic communication upon request; a sum of twenty five (£25) pounds per letter shall be payable to the Approved Inspector for this service to cover the additional administration costs.

(7) Additional fees relating to site inspections

- (a) Refer to clause 6 below

6 Site Inspections

- (1) Site inspections are scheduled for an inspection of particular elements of the project as confirmed in the inspection regime document following appointment and or as confirmed by an inspector within a site report.
- (2) The Client shall
 - (a) contact the Approved Inspector to book an inspection via an accepted booking method;
 - (b) ensure that the Approved Inspector has sufficient and safe access to undertake an inspection of such elements on the day the inspection has been scheduled; and
 - (c) ensure that the Client or a person authorized to act on the Client's behalf is present on site during the site inspection, unless the Approved Inspector has otherwise agreed in advance.
- (3) If the Approved Inspector determines at its sole discretion that an inspection cannot be carried out due to
 - (a) an inspector being unable to gain safe access to the site or to any part of the site necessary for the undertaking of the inspection,
 - (b) the inspection is unnecessary or untimely, or
 - (c) any other reason that may be directly, indirectly, or consequentially attributed to any acts or omissions by the Client or any person acting for them that could foreseeably result in the Approved Inspector being unable to undertake such inspection,

the Approved Inspector is entitled to require the Client to pay to the Approved Inspector a sum equal to

- (d) the cost of a single inspection at that location as valued at the time the inspection was unable to be carried out, but in any event shall be valued at not less than one hundred and fifty pounds (£150) exclusive of VAT,
- (e) plus any additional costs or expenses incurred by the Approved Inspector in connection with being unable to undertake such inspection,
- (f) plus VAT.

(4) Subclause (3)(b) above, includes but is not limited to inspections where

- (a) the works have not sufficiently progressed or are otherwise not ready to be inspected;
- (b) the works have been covered over;
- (c) the works have already been inspected; or
- (d) the site or works are in a condition or state otherwise than as expected.

(5) If the Approved Inspector chooses to exercise subclause (3) above, the Approved Inspector shall raise an additional invoice for the value to the Client or an otherwise agreed invoice payer payable pursuant and subject to ordinary invoice terms in this agreement.

(6) A site inspector is not required to wait for the Client or a person authorized to act on the Client's behalf if they are not present on site, unless the Approved Inspector has agreed otherwise for a particular inspection.

(7) Additional Site Inspections

- (a) Where the Approved Inspector is requested to carry out a site inspection in addition to that which is specified within the Inspection Regime, the Approved Inspector may at its sole discretion require the Client to pay the Approved Inspector a sum of one hundred and fifty (£150) pounds excluding VAT to cover the additional site visit.

7 Termination

(1) Either the Client or the Approved Inspector may terminate this contract forthwith by written notice to the other party if the other party is in material breach of its obligations under this contract and has failed to remedy the breach within 28 days of such written notice of the breach from the terminating party.

(2) The Approved Inspector may terminate this contract forthwith by written notice to the Client if:

- (a) The Approved Inspector believes that it will not be able to issue a Final Certificate
- (b) The Approved Inspector considers that there is a conflict between its obligations under this contract and the statutory functions of an Approved Inspector;
- (c) The Approved Inspector considers it necessary to cancel the initial notice under section 52(1) of the Building Act 1984.
- (d) The Approved Inspector reasonably believes that it is impossible or impracticable to perform the Services as a result of any circumstances for which Approved Inspector is not responsible; and or
- (e) The Approved Inspector is unable to maintain professional indemnity insurance and public liability insurance as required to enable it to act as an Approved Inspector.

(3) Clauses (2)(a), (2)(c) and (2)(d), above, include but are not limited to:

- (a) failure by the Client, property owner, contractor, or other agent of the Client to contact the Approved Inspector to schedule an inspection at the relevant time;
- (b) failure by the Client, property owner, contractor, or other agent of the Client to halt further construction until the Approved Inspector has carried out any requested inspections at the relevant time;
- (c) failure by the Client, property owner, contractor, or other agent of the Client to provide any plans, drawings, calculations, certificates, or other documentation or evidence that the Approved Inspector requires to enable the Approved Inspector to provide the Service;
- (d) failure by Client, property owner, contractor, or other agent of the Client to contact the Approved Inspector when required or requested to do so;
- (e) failure by Client, property owner, contractor, or other agent of the Client to keep in contact with the Approved Inspector every 30 days; or
- (f) the Approved Inspector is unable to establish communication or contact with the Client, property owner, contractor, or other agent of the Client as necessary for the Approved Inspector to perform the Service.

8 Effect of Termination

- (1) Following any notice of termination by either the Client or Approved Inspector, the Approved Inspector is entitled to cancel the initial notice by way of submitting a cancellation notice to the relevant local authority; whereupon the functions of the approved inspector will revert to the relevant local authority and the Approved Inspector will be discharged from all requirements to complete the Services or any other work agreed.
- (2) If this contract is terminated, any monies paid to the Approved Inspector are non-refundable subject to the provisions in this clause (clause 8).
- (3) If this contract is terminated, the Client must pay a termination fee to the Approved Inspector calculated and subject to the provisions in this clause (clause 8); this is a fair, reasonable and proportionate sum to be paid to the Approved Inspector for the Services performed and any costs and or expenses incurred as a result of termination. The Approved Inspector carefully manages its number of clients, with resources allocated and consultants engaged based upon the requirements of each project; this sum covers such costs and expenses and compensates the Approved Inspector for the risk that allocated resources cannot be redistributed without loss and or that other projects cannot be taken on instead.
- (4) The termination fee is based upon how early the contract is terminated (Number of Days Before Termination) and whether the Approved Inspector has commenced performance of parts of the service and is a percentage of the total fee to be paid by the Client to the Approved Inspector.
- (5) The Number of Days Before Termination means the number of days falling within the time period beginning on the day the Initial Notice is served and ending on the day the contract is terminated and includes the beginning and ending days.

The termination fee shall be calculated pursuant to the following tables as a percentage of the total fee payable to the Approved Inspector:

(a)

Event	Percentage of fee
After Initial Notice is served and prior to Plan Check	50%
After Initial Notice is served and upon Plan Check commenced	See table (b) below
Upon first site inspection	100%

(b)

Number of Days Before Termination (After Initial Notice is served and upon Plan Check commenced) (Beginning on the day the Initial Notice is served)	Percentage of fee
0-89 days	60%
90-120 Days	80%
121-364 days	85%
1 Year or more	90%

- (6) The Approved Inspector will only issue a refund to the Client prior to the Approved Inspector undertaking the first site inspection; If any fees, including termination fees, are payable, the Approved Inspector shall deduct and retain such fees from the total sum already paid to the Approved Inspector prior to issuing a refund.
- (7) If the total value of costs or expenses incurred by the Approved Inspector as a result of termination exceeds the value of any monies paid by the Client to the Approved Inspector after payment of all fees, including any termination fees, the client shall pay the Approved Inspector a sum that taken together with any monies already paid affords the Approved Inspector a fair, reasonable and proportionate payment for the Services performed and any costs or expenses incurred as a result of termination.

Part 2 Limitation of Liability

9 Murphy v Brentwood District Council

- (1) The liability of the Approved Inspector shall be limited to that of Local Authority Building Control held in *Murphy v Brentwood District Council* [1991] 1 AC 398.

10 Financial Cap

- (1) Notwithstanding anything to the contrary in these provisions, the liability of the Approved Inspector under or in connection with this Agreement whether in contract or in tort, in negligence, for breach of statutory duty or otherwise (other than in respect of personal injury or death) shall not exceed in aggregate the sum specified in clause 1(8) above.
- (2) If no amount is inserted in clause 1(8) above, the liability of the Approved Inspector shall not exceed in aggregate the lesser of
 - (a) a multiple of ten times the total of the fees payable to the Approved Inspector by the Client; or
 - (b) the amount of professional indemnity insurance required by virtue of clause 1(5) above.

11 Net Contribution

- (1) Further and notwithstanding anything to the contrary contained in this Agreement and without prejudice to any provision herein whereby liability is excluded or limited to a lesser amount, the liability of the Approved Inspector, 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 Approved Inspector to pay having regard to the extent of the Approved Inspector's responsibility for the loss or damage and on the assumptions that:
 - (a) 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
 - (b) 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
 - (c) all the parties referred to in (a) 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.

12 Adequacy of work by contractors or subcontractors

- (1) The Approved Inspector shall not be responsible for the supervision of any contractor or subcontractor, nor shall the Approved Inspector have any liability for ensuring the performance or adequate standard of workmanship of any contractor or subcontractor.

13 Liability of individual directors, members and contractors

- (1) The Client shall if it considers that there has been any breach of this Agreement only seek redress from the Approved Inspector and not from any individual directors or members of the Approved Inspector or individuals engaged by the Approved Inspector;

- (2) the Client agrees not to pursue any claims in contract, tort, negligence, for breach of statutory duty or otherwise against such individuals resulting from performance of any obligations under or in connection with this Agreement.
- (3) The Client acknowledges that such individuals referred to in (1) above are entitled to enforce this provision of the Agreement pursuant to the Contract (Rights of Third Parties) Act 1999.

14 Non-exclusion of liability for Personal Injury or Death

- (1) Nothing in this Agreement shall attempt to exclude liability for personal injury or death as a result of negligence;
- (2) nor shall any provision be construed to attempt to exclude the same.

15 Severability

- (1) In case any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall, to the extent permitted by law, not in any way be affected or impaired thereby.

16 Governing law

- (1) This contract is subject to the law of England and Wales and the Client and the Approved Inspector submit to the exclusive jurisdiction of the courts of England and Wales.

17 General limitations

- (1) The Approved Inspector does not accept any contractual obligations or duties, and shall not be liable for any contractual liabilities arising from any contractual obligations or duties, that are greater, longer lasting or more onerous than those which are contained in the ACAI/CIC approved 'CONTRACT FOR THE APPOINTMENT OF AN APPROVED INSPECTOR'.

Part 3 Level of Service

BCS (Approved Inspectors) Ltd will complete the following on all projects:

18 Pre-submission checking

- (1) We can discuss and provide our opinion on aspects of your proposal prior to a formal application. Opinions and interpretations are those of BCS (Approved Inspectors) Ltd only, based on the information provided at the time. We reserve the right to alter our opinions or give a different opinion should a non-compliance with the building regulations be identified at any stage prior to completion of a project.

19 Plan check

- (1) The submission of application/project information or the plan check process will assess compliance with the Building Regulations and we may also offer advice/recommendations in connection with related legislation, to help meet with building regulation compliance. Projects will be checked in house however where necessary and to assist in the plan checking process, we may choose to use the following specialist consultants or professionals:

- (a) Structural engineering
- (b) Fire safety advice and fire engineering
- (c) Accessibility for disabled people and Inclusive Design
- (d) Sustainable design and development
- (e) Energy conservation

(2) If we believe that the services or submission of information is required from a specialist or professional as part of an application to demonstrate compliance with a building regulation requirement, we will advise you. For example, a structural engineer design package and calculations; or a fire engineered solution.

20 Building Regulations Approval/Plans Certification

- (1) It is always wise to ensure that any plans are checked for conformity with the regulations. This Approval can be conditional or in agreed stages. All but the most straightforward work will require an application supported by design information to be approved subject to some conditions.
- (2) If requested BCS (Approved Inspectors) Ltd can issue a Plans Certificate for a project to the Local Authority (and Fire Authority if relevant). Any variations found on site or due to further design variations, will result in the revocation of such Plans Certificate.

21 Site inspections

- (1) Periodic inspections appropriate to the type of project and based on a risk assessment approach, will be carried out by BCS (Approved Inspectors) Ltd. There are no statutory notification inspections. It is the client's ultimate responsibility to comply with the building regulations and therefore, the client or their delegated person should notify us in advance of when a site inspection is required.
- (2) An inspection plan or regime can be discussed based on project duration, type and risk. Should additional inspections be requested, this should be discussed and agreed (and could incur additional fee charges).
- (3) Typically, we will aim to meet any urgent inspection within 24 hours. We would appreciate as much notification as possible to ensure we can meet an inspection request.
- (4) Site inspection requests are to be made only via the office number, 01245 895466.
- (5) All inspections are recorded, and word-processed site reports may be produced. A verbal report can also be given to the client, his representative or site agents at the time of an inspection. Written confirmation will be emailed within 3 working days of the request being received by the Admin team.
- (6) The Site Inspection Sheet includes date, site address, application number, name of surveyor. It also states the works viewed and comments are made regarding their adequacy or otherwise. Any items unresolved, subject to dispute or found unsatisfactory will be immediately communicated to the contractor, client, or the client's representative. Electronic records of all site inspections and photographs can be made available to a design team following instruction from a client.

22 Completion

- (1) A Final inspection can be carried out following notification of completion of the works. A Final Certificate will be issued following a satisfactory Final inspection and submission of compliance evidence referenced with the site report or covering communications (typically by email.)

- (2) A verbal completion report can be provided to the client or his representative on site with provisional findings to assist with providing any evidence required to demonstrate compliance with the building regulations.
- (3) Fire systems including emergency lighting, fire alarms and signage should be tested throughout. Normal NICEIC installation and commissioning certificates or amendments must be provided by contractors at completion or via email within the specified timeframes.
- (4) Installers / designers / manufacturers of other systems, such as air-handling units, boilers and flues are also required to provide suitable evidence of compliance with relevant legislation or standards.