

# Terms & Conditions

## 1. These terms

**1.1** Our Design Proposal Breakdown and these Conditions are the terms and conditions on which we provide our Services to you. They set out how we will provide the Services, the fees we will charge, how you or we may end the Contract and other important information. Please read the Design Proposal Breakdown and these Conditions carefully and speak to the person who is handling your work if you have any questions or if anything is unclear.

**1.2** In some areas, you will have different rights under these Conditions if you are a business or consumer. You are a consumer if you are an individual procuring our services for your personal use and not in connection with any trade or profession.

## 2. Information about us and how to contact us

**2.1** Who we are. We are Halecyon Architecture & Design. Our registered office is at: 124 City Road, EC1V 2NX, London.

**2.2** How to contact us. You can contact us by telephoning us on 0744 819 0044 or by writing to us at [office@halecyon.com](mailto:office@halecyon.com).

**2.3** How we may contact you. If we have to contact you, we will do so by telephone or by writing to you at the email address or postal address you provided to us.

**2.4** "Writing" includes emails. When we use the words "writing" or "written" in these Conditions, this includes emails.

## 3. Interpretation

The following definitions apply in these Conditions.

### 3.1 Definitions

Client	the person(s), firm or company who purchases Services from us.
Conditions	these terms and conditions as amended from time to time in accordance with clause 18.5.
Contract	the contract, comprising the Design Proposal Breakdown and these Conditions, between Halecyon Architecture & Design and the Client for the supply of the Services.
Fees	the fees payable by the Client for the provision of the Services in accordance with clause 9.
Intellectual Property Rights	copyright and related rights, moral rights, rights in designs, rights to use, and protect the confidentiality of, confidential information, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Project	the Client's project in relation to which Halecyon Architecture & Design are to provide the Services as specified in the Design Proposal Breakdown.
Services	the services to be performed by Halecyon Architecture & Design as specified in the Design Proposal Breakdown or otherwise agreed in writing from time to time.

## 4. Basis of contract

**4.1** The Client shall confirm in writing the acceptance of these Conditions or otherwise provide Halecyon Architecture & Design with written authority to proceed. If the client does not give Halecyon Architecture & Design written authority to proceed and Halecyon Architecture & Design

continues to provide the Services, the Client will be deemed to have accepted the Design Proposal Breakdown and these Conditions. Payment of the first invoice of the Project also constitutes acceptance of these Conditions and the Design Proposal Breakdown.

## **5. Supply of Services and Halecyon Architecture & Design's obligations**

**5.1** Halecyon Architecture & Design shall:

**5.1.1** provide the Services and perform its obligations under the Contract using reasonable care and skill in accordance with the normal standards of the architectural profession;

**5.1.2** keep the Client informed of progress in the performance of the Services and of any issue that may affect the programme;

**5.1.3** supply the Services to the Client in accordance with the Design Proposal Breakdown in all material respects and use all reasonable endeavours to meet any performance dates specified in the Design Proposal Breakdown, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services; and

**5.1.4** co-operate and collaborate with such other contractors and consultants as are appointed by the Client in connection with the Project, including sharing designs and other relevant information.

**5.2** It may be necessary to amend the Services or approved design to comply with any applicable law or regulatory requirement, but Halecyon Architecture & Design shall notify the Client in any such event.

## **6. Client's obligations**

**6.1** The Client shall:

**6.1.1** ensure that the terms of the Design Proposal Breakdown are complete and accurate and meet its requirements for the Project;

**6.1.2** co-operate with Halecyon Architecture & Design in all matters relating to the Services;

**6.1.3** provide Halecyon Architecture & Design with such information, access and instructions as Halecyon Architecture & Design may reasonably require in order to provide the Services and ensure that such information is complete and accurate in all material respects. The Client acknowledges that Halecyon Architecture & Design shall be entitled to rely on such information;

**6.1.4** appoint and pay such other contractors and consultants as are required in connection with the Project and require them to co-operate and collaborate with Halecyon Architecture & Design. Such contractors and consultants shall be instructed directly by the Client and Halecyon Architecture & Design makes no warranty as to the competence, performance, work, services, products or solvency of any such contractors or consultants. The Client shall hold such contractors and consultants (and not Halecyon Architecture & Design) responsible for the proper carrying out and completion of construction works; and

**6.1.5** if the Client is a company or other corporate entity, provide Halecyon Architecture & Design with contact details for a representative of the Client with authority to provide information and instructions to Halecyon Architecture & Design as required.

**6.2** Halecyon Architecture & Design shall not be liable for any delays to the Services or Project caused by the Client's failure to comply with the obligations in this clause 6.

## **7. Construction (Design & Management) Regulations 2015**

**7.1** The Construction (Design & Management) Regulations 2015 (CDM Regulations) set out key health and safety obligations for construction projects and apply to both business and consumer clients, though the obligations for business clients are more burdensome.

**7.2** Under the CDM Regulations the Client must make suitable arrangements for managing a project including appointing a principal designer to co-ordinate the pre-construction phase of the project.

**7.3** Unless set out in the Design Proposal Breakdown, assuming the role of principal designer or any other role under the CDM Regulations is not included within the Services and it is the Client's responsibility for ensuring it complies with all of its duties under the CDM Regulations.

## **8. Planning permission and other applications for consent**

**8.1** Halecyon Architecture & Design shall make no enquiries as to the presence of any restrictive covenants, easements, rights of way or other legal burdens affecting the land or building to which the Project relates or any requirement to comply with the Party Wall Act 1996. The Client should make its own enquiries and satisfy itself in respect of these matters before instructing Halecyon Architecture & Design.

**8.2** The Client shall instruct the making of applications for consent under planning legislation, building acts and regulations and such other legislation as may be required in connection with the

Services and Project. The Client shall pay any statutory charges and any fees, expenses and disbursements in respect of such applications.

**8.3** The Client acknowledges that Halecyon Architecture & Design cannot guarantee that planning permissions and other approvals from third parties will be granted at all or in accordance with any anticipated timescale. Halecyon Architecture & Design reserves the right to charge additional fees for amending or redrawing any proposal should the Client wish to make significant amendments to the design or should another application for planning permission or other approval need to be submitted. Once decisions have been received from the relevant authorities, it may be necessary to revise the budget and timescales for the Project.

**8.4** Should the Client wish to appeal a planning permission decision or other decision, the Client will need to appoint a specialised appeal third party company.

## **9. Payment of Fees, expenses and disbursements**

**9.1** The Fees for performance of the Services and any additional services shall be calculated in accordance with this clause 9 and as specified in the Design Proposal Breakdown.

**9.2** Unless otherwise set out in the Design Proposal Breakdown or agreed in writing, Halecyon Architecture & Design shall invoice the Client on a fortnightly basis in arrears.

**9.3** Where the Fees are charged at hourly rates, they will be calculated according to the time spent providing the Services and the status of the person carrying out the work. Halecyon Architecture & Design's current hourly rates are included in the Design Proposal Breakdown and are available on request at any time during the Contract.

**9.4** The hourly rates are reviewed annually. Details of any revised rates during the Contract will be supplied on request however Halecyon Architecture & Design will usually notify the Client of the new rates, these are unlikely to increase by more than 10% per annum.

**9.5** Where the Fees are charged based on a percentage of the building costs for the Project, they will be based on the total building costs (or the current estimate of those costs where the actual costs cannot yet be ascertained) and no deductions shall be made in respect of contractor discounts, retentions or otherwise without Halecyon Architecture & Design's prior written agreement.

**9.6** Where the Fees are charged by any other method, for example lump sums on completion of certain stages of the Project, this will be set out in the Design Proposal Breakdown.

**9.7** If there are any changes to the scope of the Services or any of the information supplied by the Client turns out to be incorrect, this may increase the Fees. It may be that the Project becomes protracted or is more complicated than envisaged at the date of Design Proposal Breakdown which will have a knock-on effect on the Fees. Unless agreed otherwise, such additional fees shall be calculated on a time spent basis in accordance with clause 9.3 and Halecyon Architecture & Design shall inform the Client on becoming aware that Fees will be higher.

**9.8** In addition to the Fees, Halecyon Architecture & Design shall be entitled to charge the Client for any expenses reasonably incurred by Halecyon Architecture & Design in connection with the Services including, but not limited to, travelling expenses, photocopying expenses, the costs of purchasing Ordinance Survey maps and data and the cost of services provided by third parties and required for the performance of the Services.

**9.9** All Fees and other amounts payable by the Client under the Contract shall not be subject to VAT unless stated otherwise.

**9.10** The Client shall pay each invoice submitted by Halecyon Architecture & Design within 7 days of the date of the invoice, unless stated otherwise on the Design Proposal Breakdown or on the invoice itself.

**9.11** If the Client fails to make a payment due to Halecyon Architecture & Design under the Contract by the due date, then, without limiting Halecyon Architecture & Design's remedies under clause 14, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment, as well as debt recovery costs incurred by Halecyon Architecture & Design. Interest under this clause 9.11 will accrue each day at 5% a year above National Westminster Bank PLC's base rate.

**9.12** All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding.

## **10. Intellectual Property Rights and use of drawings and documents**

**10.1** Halecyon Architecture & Design shall own all Intellectual Property Rights in the drawings, documents and such other work produced in performing the Services (including material in electronic format) and asserts its moral rights to be identified as the author of all such work.

**10.2** Halecyon Architecture & Design grants to the Client a licence to copy and use the drawings and documents for the purposes of receiving and using the Services and only in connection with the Project. Such drawings and documents may not be used for reproduction of the design for any part of any extension of the Project and/or for any other project except with the prior written consent of Halecyon Architecture & Design and on payment of a licence fee to Halecyon Architecture & Design.

**10.3** The Client shall not sub-license, assign or otherwise transfer the rights granted in clause without the prior written consent of Halecyon Architecture & Design. If the drawings and documents are used by third parties for any reason, with or without the consent of Halecyon Architecture & Design, that third party shall be responsible for checking the accuracy of all dimensions, details and other information shown so as to satisfy themselves as to its accuracy.

**10.4** If at any time the Client is in default of payment of Fees or other amounts due under the Contract, the licence granted under clause 10.2 shall cease immediately and automatically. Use of the licence may be resumed on receipt by Halecyon Architecture & Design of such outstanding amounts..

## **11. Data protection**

**11.1** Halecyon Architecture & Design may process, transfer or disclose personal information about the Client for the purposes of providing the Services, complying with the Client's instructions and complying with its legal obligations.

## **12. Limitation of liability**

**12.1** The Client agrees that they will not bring any claim against any employee or director of Halecyon Architecture & Design in respect of any loss or damage they or any person or company associated with them suffer or incur, directly or indirectly, in connection with the provision of the Services.

**12.2** Halecyon Architecture & Design shall not be liable for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract.

**12.3** The Client shall hold the contractor or contractors responsible for the proper carrying out and completion of the construction works and for health and safety provisions on site. It is expected that all contractors appointed will be competent in their profession.

**12.4** This clause 12 shall survive termination of the Contract.

## **13. Consumer client's right to cancel**

**13.1** Consumer clients who enter into the Contract with Halecyon Architecture & Design's have the right to cancel the Contract within 14 days under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Cancellations must be made by giving notice in writing, in each case sent by email to Halecyon Architecture & Design.

**13.2** If Halecyon Architecture & Design were instructed to perform any Services before the Client ended the Contract, Halecyon Architecture & Design shall be entitled to any fees and expenses properly due before receipt of the Client's notice of cancellation.

## **14. Termination**

**14.1** The Client or Halecyon Architecture & Design may terminate the Contract or suspend performance of the Services at any time by giving the other party seven days' prior written notice, stating the reasons for doing so.

**14.2** Without affecting any other right or remedy available to Halecyon Architecture & Design, Halecyon Architecture & Design may terminate the Contract with immediate effect by giving the Client written notice if:

**14.2.1** the Client fails to pay any amount due under the Contract on the due date for payment;

**14.2.2** the Client commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within seven days of Halecyon Architecture & Design asking the Client in writing to do so;

**14.2.3** the Client (or either of them where there is more than one Client), being an individual, is the subject of a bankruptcy petition; or

**14.2.4** the Client, being a company or LLP, takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors

**14.3** Without affecting any other right or remedy available to Halecyon Architecture & Design, Halecyon Architecture & Design may suspend the supply of Services if;

**14.3.1** the Client fails to pay any amount due under the Contract on the due date for payment;

**14.3.2** the Client commits a material or persistent breach of the Contract; or

**14.3.3** Halecyon Architecture & Design are prevented from or impeded in performing the Services for reasons beyond Halecyon Architecture & Design's reasonable control.

## **15. Consequences of termination**

**15.1** On termination of the Contract:

**15.1.1** the Client shall immediately pay to Halecyon Architecture & Design all of Halecyon Architecture & Design's outstanding unpaid invoices, interest and any other costs incurred and, in respect of Services supplied but for which no invoice has been submitted, Halecyon Architecture & Design shall submit an invoice, which shall be payable by the Client immediately on receipt; and

**15.1.2** a copy of the drawings and documents produced in performing the Services not previously provided to the Client shall be delivered on demand to the Client by Halecyon Architecture & Design, subject to the terms of the licence under clause 10 and payment of all outstanding Fees, expenses and other amounts due to Halecyon Architecture & Design.

## **16. Photography and publicity**

Halecyon Architecture & Design shall have the right to publish photographs and images relating to the Client's project on Halecyon Architecture & Design's website, social media platforms and in any other marketing publications or magazines. The Client shall give Halecyon Architecture & Design reasonable access for this purpose after practical completion of the Project.

## **17. General**

**17.1** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

**17.2** Confidentiality.

**17.3.1** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the Project and the business, affairs and commercial contacts of the other party, except as permitted by clause 17.3.2.

**17.3.2** Either party may disclose the other's confidential information:

1. a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out its obligations under the Contract;
2. b) to take professional advice in relation to the Contract or Services, or in order to obtain/maintain insurance cover; and
3. c) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

**17.3.3** Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

**17.4** If the Client is a business client, the Contract constitutes the entire agreement between the Client and Halecyon Architecture & Design and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. The Client acknowledges and agrees that it has not relied on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.

**17.5** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**17.6** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

**17.7** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**17.8** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

**17.9** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.