



Professional
Architects
Council



MODEL AGREEMENT FOR ARCHITECTURAL SERVICES

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Guidance Notes

The Guidance Notes seek to explain the provisions of the PAC Model Agreement for Architectural Services for the appointment of an Architect or Consultant providing architectural services. These Notes also seek to provide some guidance with respect to key considerations when completing the Particular Conditions (See sample of Agreement) and the Schedule of Services. The Guidance Notes do not form part of the Agreement and are provided for informational purposes only.

Summary of the Agreement

The PAC Model Agreement for Architectural Services is an agreement between the Client (the Party that wishes to commission the architectural services, known as the 'Services') and the Architect/Consultant (the person or firm performing the Services).

The PAC Model Agreement for Architectural Services ("The Agreement") comprises of three (3) Parts with equal legal value, which are the Schedule of Services, General Conditions and the Minimum Indicative Fees.

Part 1 Schedule of Services

The Schedule of Services is used to define the Services to be performed by the Architect/Consultant.

Specific services normally provided by the Architect. These services progress through three work-stages. The sequence of work stages may be varied or two or more work stages may be combined to suit the particular circumstances.

- Work stage A: Brief and Concept Design
- Work stage B: Spatial Coordination and Technical Design
- Work stage C: Construction and Handover

Part 2 General Conditions

The General Conditions set out the terms, the rights and obligations of the Parties.

Part 3 Minimum Indicative Fees

A sample of **Agreement** (Particular Conditions) is included with the document for information. It is published separately.

The client and the architect should discuss the architect's appointment and agree in writing the services, conditions and fee basis. These should be stated in the **Agreement** between client and architect; alternatively, they should be stated in a letter of appointment.

Note: 'Architect*' is a legally protected title in the Republic of Mauritius, which can only be used by a person registered under the Professional Architects' Council Act with the Professional Architects' Council (PAC).

Part 1 Schedule of Services

The Specific Services that the Architect/Consultant will carry out at each stage of the Project are listed below. The Services will be undertaken in accordance with the stages defined in the PAC Outline Plan of Work.

Work Stage A: Brief and Concept Design

1. Discuss the client's requirements including timescale and any financial limits; assess these and give general advice on how to proceed; agree the architect's services.
2. Obtain from the client information on ownership and any lessors and lessees of the site, any existing buildings on the site, boundary fences and other enclosures, and any known easements, encroachments, underground services, rights of way, rights of support and other relevant matters.
3. Visit the site and carry out an initial appraisal.
4. On behalf of the Client, arrange surveys or other investigations that the Architect/Consultant identifies as reasonably required.
5. Contribute to the development of the Project Programme.
6. Establish the Construction Cost with the Client.
7. Assist the Client in developing the initial Project Brief.
8. Prepare and discuss feasibility studies for the Project.
9. Advise on the need for other consultants' services and on the scope of these services.
10. Advise on the need for specialist contractors, sub-contractors and suppliers to design and execute part of the works to comply with the architect's requirements.
11. Advise on the need for site staff.
12. Prepare where required an outline timetable and fee basis for further services for the client's approval.
13. Prepare the Concept Design incorporating Strategic Engineering requirements and aligned to Cost Plan, Project Strategies and Outline Specification.
14. Collate and agree with the Client changes to the initial Project Brief and issue the final Project Brief.
15. If an Outline Planning Permission application is submitted at this stage, this might include 2D location plan, context plan, site drawings, plans, elevations, development brief and an outline specification.

Work Stage B: Spatial Coordination and Technical Design

1. With other consultants where appointed, develop a spatially coordinated design, from the concept design taking into account amendments requested by the client; prepare a cost estimate; where applicable give an indication of possible start and completion dates for the Building Contract. The project design will illustrate the size and character of the project in sufficient detail to enable the client to agree the spatial arrangements, materials and appearance.
2. With other consultants where appointed, advise the client of the implications of any subsequent changes on the cost of the project and on the Project Programme.
3. Coordinate the relevant information received from the Other Client Appointments with the Architect/Consultant's design and develop the spatially coordinated design, obtain the client's approval of the type of construction, quality of materials and standard of workmanship; co-ordinate

- any design work done by consultants, specialist contractors, sub-contractors and suppliers; obtain quotations and other information in connection with the specialist work.
4. Advise the Client of the planning conditions.
 5. Prepare the technical design including drawings, in sufficient detail to enable a tender or tenders to be obtained.
 6. Coordinate the relevant information received from the Other Client Appointments with the Architect/Consultant's design.
 7. Review and update the Project Programme.
 8. Provide updated Construction Cost information to the Client.
 9. Prepare architectural specification/schedule of works.
 10. Prepare and submit the Building and Land-Use Permit application to the appropriate planning authority. *Permissions themselves are beyond the architect's control and no guarantee that it will be granted can be given.*
 11. Identify and agree the extent of the technical design work that is to be completed by the Contractor or the specialist subcontractors.

Work Stage C: Construction and Handover

Tender Action

1. Advise the Client on potential contractors to be invited to tender for the construction works.
2. Collate the Other Client Appointments' tender information and issue the tender pack to the Client for its approval.
3. Invite, appraise and report on tenders. Alternatively, arrange for a price to be negotiated with a contractor.
4. Coordinate the design work prepared by the Contractor and the specialist subcontractors with the Architect/Consultant's design.
5. Advise the Client on the appropriate form of Building Contract, its conditions and the responsibilities of the Client, the Other Client Appointments and the Contractor.

Project Planning

1. Advise the client on the appointment of the contractor and on the responsibilities of the client, contractor and architect under the terms of the Building Contract; where required prepare the Building Contract and arrange for it to be signed by the client and the contractor; provide production information as required by the Building Contract.
2. Request that the Contractor provides evidence to the Client of any insurances required under the Building Contract.
3. Coordinate and submit a letter to the appropriate planning authority to notify of the start of foundation works.

Construction

1. Provide architectural information to the Other Client Appointments, as reasonably required, to enable them to carry out their services.
2. Respond within a reasonable timeframe to site queries.
3. Provide the Client with the original copy of any notices, consents or approvals in connection with planning, building control and other relevant statutory approvals.
4. Maintain contract administration procedures, hierarchy of responsibility and lines of communication for the exchange of information between the Client, the Other Client Appointments and the Contractor in accordance with the Building Contract.
5. Organise, chair and record meetings, at the frequency stated in item F of the Particular Conditions, identify the activities to be undertaken and determine who is responsible for taking action and report on progress to the Client.
6. Carry out periodic visual site inspections, as stated in item F of the Particular Conditions, to inspect the construction works with respect to general compliance with the Building Contract and Project Programme.
7. Certify interim payments in accordance with the terms of the Building Contract.
8. Review the progress of the construction works against the Project Programme.
9. Advise the Client regarding the effect that any variation or change proposed by the Client or Contractor will have on the Construction Cost and Project Programme.
10. Prepare and submit the clearance certificate to discharge the construction-stage and the pre-occupancy planning conditions.
11. Issue instructions in accordance with the terms of the Building Contract.
12. Request manufacturers' maintenance instructions or leaflets from the Contractor and provide them to the Client.
13. Certify Practical Completion when this has been achieved.

Handover

1. Carry out visual site inspections, as stated in item F of the Particular Conditions, and comment on the resolution of defects and issue site inspection reports to the Client.
2. Issue a schedule of defective works.
3. Liaise with the Client, the Other Client Appointments and the Contractor in relation to the making good of defects.
4. Inspect the remedial works following receipt of notice from the Contractor that the resolution of defective works is complete.
5. Certify when the defective works have been rectified.
6. Assist the Client and the Contractor to agree the final account and issue the final certificate.

Additional Services

The following services are not included in the Agreement but the Client can request that the Architect/Consultant undertakes these services, if the need arises, during the Project. These services are subject to additional fees, which are to be agreed between the Client and the Architect/Consultant.

Services may include, but are not limited to, the following:

- producing models and special drawings
- negotiating approvals with statutory authorities
- making submissions to and negotiating approvals with freeholders, etc.
- preparing a schedule of dilapidations
- services in connection with party wall negotiations
- negotiating a price with a contractor (in lieu of tendering)
- services in any dispute between the Client and another party
- services following damage by fire and other causes
- services following suspension or termination of any contract or agreement following the insolvency of any other party providing services to the Project
- services in connection with government and other grants
- specialist services in relation to historic buildings and conservation works
- services as a consultant architect on a regular or intermittent basis

Part 2 General Conditions

1. General Provisions

- 1.1. The provisions of the Agreement continue to bind the Client and the Architect/Consultant as long as is necessary to give effect to the Parties' respective rights and obligations.
- 1.2. The Agreement supersedes any previous agreement or arrangements between the Client and the Architect/Consultant in relation to the Services (whether oral or written) and represents the entire agreement between the Client and the Architect/Consultant in relation to the Services. All additions, amendments and variations to the Agreement shall be binding only if agreed in writing by duly authorised representatives of both the Client and the Architect/Consultant.
- 1.3. If any clause or part of any clause of the Agreement is ruled by the courts or declared to be invalid or unenforceable in any way, it shall be severed from the Agreement and this shall not affect any other clause of the Agreement, nor the validity of the remaining clauses of the Agreement, which shall remain in full force.

1.4. Definitions

- 1.4.1. The following words and expressions shall have the meanings assigned to them except where the context otherwise requires:
 - 1.4.1.1. **Architect/Consultant:** the person (individual) or firm that the Client appoints to perform the Services.
 - 1.4.1.2. **Basic Fee:** the fee for the Services excluding VAT and any additional charges, such as expenses, disbursements, etc.
 - 1.4.1.3. **Building Contract:** the contract between the Client and the Contractor for the construction of the Project.
 - 1.4.1.4. **Client:** the person or organisation referred to in item A of the Particular Conditions. This also includes the Client's representative where one is appointed by the Client with full authority to act on behalf of the Client for all purposes in connection with the matters set out in the Agreement, except where advised to the contrary.
 - 1.4.1.5. **Confidential Information:** all information relating to the Project and the Client's and Architect/Consultant's business and affairs which either Party directly or indirectly receives or acquires from the other Party or any representative of the other Party whether in writing, by electronic mail or orally and which is not otherwise already in the public domain.
 - 1.4.1.6. **Construction Cost:** the Client's target cost for the building works as specified in the Project Brief, as set out in item D of the Particular Conditions (being the Client's initial budget), and subsequently the latest estimate approved by the Client or, where applicable, the actual cost of constructing the Project upon agreement or determination of the final account for the Project. The Construction Cost includes the cost of any equipment and/or materials provided or to be provided by the Client to the Contractor for installation as part of the Project, and any direct works carried out by or on behalf of the Client. The Construction Cost excludes VAT, professional fees, the cost of resolution of any dispute, the Client's legal and in-house expenses and any loss and/or expense payments made to the Contractor and is not affected by any liquidated damages deducted by the Client.
 - 1.4.1.7. **Contractor:** the party referred to as the Contractor in the Building Contract.
 - 1.4.1.8. **Final Date for Payment:** the date by which a payment that is due.
 - 1.4.1.9. **Notified Sum:** the sum set out in a Payment Notice or in a default notice.

- 1.4.1.10. **Other Client Appointments:** other consultant or services appointments which have been, or will need to be, made by the Client to enable the Architect/Consultant to undertake its work in connection with the Project.
- 1.4.1.11. **Party/Parties: the signatories to the Agreement:** the Client and the Architect/Consultant described in items A and B of the Particular Conditions.
- 1.4.1.12. **Payment Notice:** a notice that the Architect/Consultant issues to the Client showing the payment that the Architect/Consultant considers is due and how it was calculated.
- 1.4.1.13. **Practical Completion:** when the works are certified as having achieved 'Practical Completion' under the terms of the Building Contract.
- 1.4.1.14. **Project:** as described in the Project Brief, item D of the Particular Conditions.
- 1.4.1.15. **Project Brief:** the Client's requirements for the Project, as initially set out in item D of the Particular Conditions and including any revisions made by the Architect/Consultant and approved by the Client.
- 1.4.1.16. **Project Programme:** the Client's initial programme for the Project, as specified in item D of the Particular Conditions, and including any revisions made by the Architect/Consultant and approved by the Client.
- 1.4.1.17. **Schedule of Services:** the schedule specifying the Services and additional services to be undertaken by the Architect/Consultant in connection with the Project, which is incorporated into the Agreement.
- 1.4.1.18. **Services:** the professional services to be performed by the Architect/Consultant specified in the Schedule of Services, which may be varied by agreement.

2. Client's Obligations

2.1 The Client shall:

- 2.1.1 inform the Architect/Consultant of the Project Brief, the Construction Cost, the Project Programme and the Services required and, as soon as reasonably practicable, of any subsequent changes required thereto and agree steps to mitigate the consequences of such changes;
- 2.1.2 provide, free of charge, information in the Client's possession, or which is reasonably obtainable in relation to the present Services, and which the Architect/Consultant reasonably advises is necessary for the proper and timely performance of the Services, and the Architect/Consultant shall be entitled to rely on such information;
- 2.1.3 upon request by the Architect/Consultant take such decisions and give such approvals as may be required for the proper and timely performance of the Services;
- 2.1.4 appoint or otherwise engage any Other Client Appointments as may be required to perform work or services under separate agreements and require them to collaborate with the Architect/Consultant. The Client shall confirm in writing to the Architect/Consultant the work or services to be performed by any Other Client Appointments;
- 2.1.5 hold the Other Client Appointments appointed under clause 2.1.4 above, and not the Architect/Consultant, responsible for the proper carrying out and completion of the work or services entrusted to them under any Other Client Appointments;
- 2.1.6 hold the Contractor(s) appointed to undertake construction works, and not the Architect/Consultant, responsible for the proper carrying out and completion of construction works in compliance with the Building Contract;

- 2.1.7 shall, where the Architect/Consultant is appointed as Contract Administrator for the Building Contract, not deal with the Contractor directly or interfere with the Architect/Consultant's duties under the Building Contract;
- 2.1.8 not hold the Architect/Consultant responsible for any instructions or the consequences thereof, issued by the Client directly to the Other Client Appointments or Contractor;
- 2.1.9 pay any statutory charges and any fees, expenses and disbursements as required for the proper execution of the Services.
- 2.2 The Client's named representative, as indicated in item A of the Particular Conditions, shall have full authority to act on behalf of the Client for all purposes in connection with the matters arising out of and/or in relation to the provision of Services under this Agreement.
- 2.3 The Client agrees that the Architect/Consultant shall not be held liable and cannot guarantee:
 - 2.3.1 the granting of planning authorisations and/or approvals by third parties and relevant authorities.
 - 2.3.2 compliance with any reviewed or revised Project Programme and/or Construction Cost, which review/revision results from inter alia:
 - a) variations instructed by the Client;
 - b) fluctuations in market prices;
 - c) delays caused by any Other Client Appointments and/or the Contractor.

3 Architect/Consultant's Obligations

- 3.1 In the performance of the Services, and discharging all the obligations under the Agreement, the Architect/Consultant will exercise the reasonable skill, care and diligence to be expected of an Architect/Consultant experienced in the provision of such services for projects of a similar size, nature and complexity to the Project.
- 3.2 Notwithstanding anything that may appear elsewhere to the contrary, whether under this Agreement or otherwise, the Architect/Consultant's duties and obligations shall be deemed to be subject to the exercise of such reasonable skill, care and diligence and nothing contained in this Agreement or elsewhere shall be construed as imposing on the Architect/Consultant any greater duty than the exercise of such reasonable skill, care and diligence, save as may be provided for under the applicable laws.
- 3.3 The Architect/Consultant shall:
 - 3.3.1 perform the Services with due regard to the Project Brief;
 - 3.3.2 inform the Client, on a regular basis, of progress in the performance of the Services and, upon becoming aware, of any issue that may materially affect the Project Brief, Project Programme, Construction Cost or quality of the Project, and any information, decision or action required in mitigation;
 - 3.3.3 inform the Client of any need for the appointment of additional Client Appointments;
 - 3.3.4 request the client, in writing, for the submission of any information, or the need for such decision or action as may be required from the client and/or Other Client Appointments as may be applicable;
 - 3.3.5 act on behalf of the Client in the matters set out in the Agreement or in relation to any project procedures as may be agreed with the Client from time to time, subject to the Client's prior written approval;
 - 3.3.6 if acting as Contract Administrator for the Building Contract, exercise impartial and independent judgement when acting as an intermediary between the Client and the Contractor;

- 3.3.7 collaborate with any Other Client Appointments named in the Particular Conditions or any other parties who might reasonably be expected to perform work or services;
 - 3.3.8 where indicated in the Services, the Architect/Consultant shall coordinate relevant information received from any other parties or Other Client Appointments with the Architect/Consultant's design, but shall not be responsible for the content of the information received;
 - 3.3.9 make no amendments to the Services, General Conditions, Particular Conditions or an approved design without the prior written consent of the Client;
 - 3.3.10 not be held liable or accountable in the event the client unduly delays the consent as required under clause 3.3.9.
- 3.4 Subject to clause 14, the Architect/Consultant shall have the right to publish photographs and other information relating to the Project, and the Client shall give reasonable access to the Project for this purpose for 2 years after Practical Completion.

4. Assignment and Subcontracting

- 4.1. A party shall at no point in time assign the benefit of the Agreement or any rights arising under it without the prior written consent of the other. Such consent shall not be unreasonably withheld or delayed.
- 4.2. Save for agreements of agency or for self-employed staff, for which consent of the other Party is not required, subcontracting by the Architect/Consultant shall not relieve the Architect/Consultant of any of his obligations for carrying out and completing the Services in accordance with the Agreement.

5. Contractors, Sub-Contractors and Suppliers

- 5.1. A specialist contractor, sub-contractor or supplier who is to be employed by the client to design any part of the works may be nominated by either the Architect/Consultant or the Client, subject to acceptance by the other Party.
- 5.2. The client will hold such contractor, sub-contractor or supplier, and not the Architect responsible for the competence, proper execution and performance of the work thereby entrusted to that contractor, sub-contractor or supplier. The Architect will have the authority to co-ordinate and integrate such works into the overall design.
- 5.3. The Client will employ a contractor under a Building Contract to undertake construction or other works. The client will hold the contractor, and not the Architect, responsible for the contractor's operational methods and for the proper execution of the works.

6. Site Inspection

- 6.1. The Architect will visit the site at intervals appropriate to the stage of construction to inspect the progress and the quality of the works and to determine that they are being executed generally in accordance with the contract documents. The Architect will not be required to make frequent or constant inspections.
- 6.2. Where frequent or constant inspection is required, a clerk of works will be employed. The clerk of works will be employed by the client but will be under the Architect's direction and control.
- 6.3. Where the need for frequent or constant on-site inspection by the Architect is agreed to be necessary, a Resident Architect shall be appointed by the Architect.

6.4. Where the Architect employs a Resident Architect or a clerk of works, he shall be reimbursed by the client.

7. Fees and Expenses

7.1. The fees for performance of the Services and/or any additional services shall be calculated in accordance with this clause and as specified in the Particular Conditions.

7.2. The Basic Fee for performance of the Services shall be as specified in item F of the Particular Conditions and may be any or a combination of:

7.2.1. the specified percentage or percentages applied to the Construction Cost. Until the actual cost of the building work is known, the percentages are applied to the latest approved estimate of the cost of the building work or the Building Contract sum. The total fee shall be adjusted based on the final Construction Cost on completion of the Services. The cost shall exclude VAT, fees and any claims made by or against the Contractor;

7.2.2. the specified lump sum or sums;

7.2.3. the time charges ascertained by multiplying the time reasonably spent in the performance of the Services by the specified hourly or daily rate for the relevant personnel, as set out in item G of the Particular Conditions. Time 'reasonably spent' includes the time spent in connection with performance of the Services in travelling from and returning to the Architect/Consultant's office;

7.2.4. any other agreed method.

7.3. Lump sums and rates for time charges, mileage and printing shall be revised every 12 months in accordance with changes in the Consumer Prices Index. Each 12-month period commences on the anniversary of the date of the Agreement.

7.4. The Basic Fee shall be adjusted:

7.4.1. including due allowance for any loss and/or expense, if material changes are made to the Project Brief and/or the latest approved estimate of the cost of the building work and/or Project Programme save to the extent that any changes arise from a breach of the Agreement by the Architect/Consultant and/or the Services are varied by agreement;

7.4.2. where percentage fees in accordance with clause 7.2.1 apply, to compensate the Architect/Consultant for any reduction of the Construction Cost arising solely from deflationary market conditions not prevailing at the date of the Agreement.

7.5. Subject to clause 7.6, if the Architect/Consultant is involved in extra work or incurs extra expense for reasons beyond the Architect/Consultant's reasonable control, additional fees shall be calculated on a time basis in accordance with clause 7.2.3 at the rate(s) set out in item G of the Particular Conditions unless otherwise agreed. Matters in relation to which the Architect/Consultant shall be entitled to additional fees include, but are not limited to, where:

7.5.1. the cost of any work, installation or equipment, in connection with which the Architect/Consultant performs Services, is not included in the Construction Cost;

7.5.2. the Architect/Consultant is required to vary any Service already commenced or completed or to provide a new design after the Client has authorised development of an approved design;

7.5.3. the nature of the Project reasonably requires that substantial parts of the design are not completed or that they are specified provisionally or approximately before construction commences;

7.5.4. performance of the Services is delayed, disrupted or prolonged.

- 7.6. The Architect/Consultant shall inform the Client on becoming aware that clause 7.5 shall apply. Clause 7.5 shall not apply to the extent that any change or extra work or expense arises from a breach of the Agreement by the Architect/Consultant.
- 7.7. The Client shall reimburse the Architect/Consultant for expenses and disbursements in the manner specified in item H of the Particular Conditions.
- 7.8. The Architect/Consultant shall maintain records of time spent on Services performed on a time basis and for any expenses and disbursements to be reimbursed at net cost. The Architect/Consultant shall make such records available to the Client on reasonable request.
- 7.9. Where the Architect/Consultant is instructed by the Client to invite a tender or tenders for work or services in connection with the Project but no tender is submitted or accepted, the Architect/Consultant shall be entitled to fees due up to and including the receipt of tenders based on the construction work or that part of it relating to the Services current at the date of tender.

8. Interim Payments

- 8.1. Fees and expenses should be paid in instalments either at regular intervals or on completion of work stages as specified in item F of the Particular Conditions.
- 8.2. Where interim payment of percentage or lump sum fees is related to completion of work stages of the Specific Services, the recommended apportionment is as follows:

Work Stage	Proportion of Fees	Cumulative total
A	25%	25%
B	35%	60%
C	40%	100%

- 8.3. In addition to the fees and expenses, the Client shall pay any VAT chargeable on the Architect/Consultant’s fees and expenses.

9. Payment Notices

- 9.1. The Architect/Consultant shall issue Payment Notices at the intervals specified in item I of the Particular Conditions.
- 9.2. In the event of non-payment of any amount properly due to the Architect/Consultant under the Agreement, the Architect/Consultant is entitled to interest on the unpaid amount. The Architect/Consultant may:
 - 9.2.1. suspend use of the copyright licence under the provisions of clause 13;
 - 9.2.2. suspend or terminate performance of the Services and other obligations under the provisions of clause 13;
 - 9.2.3. commence dispute resolution procedures and/or debt recovery procedures.
- 9.3. Each Payment Notice shall comprise the Architect/Consultant’s account, setting out any accrued instalments of the fee and other amounts due, less any amounts previously paid, and stating the basis of calculation of the amount specified. The payment due date shall be the date of the Architect/Consultant’s Payment Notice. Instalments of fees shall be calculated on the Architect/Consultant’s reasonable estimate of the percentage of completion of the Services or stages or other services or any other specified method.
- 9.4. The Client shall pay the Notified Sum within **30 days** of the date of issue of the relevant Payment Notice (which shall be the Final Date for Payment).

- 9.5. The Architect/Consultant shall submit the final Payment Notice for fees and any other amounts due when the Architect/Consultant reasonably considers the Services have been completed.
- 9.6. In the event that any amounts are not paid when properly due, the Architect/Consultant shall be entitled to simple interest on such amounts until the date that payment is received at **12% per year** over the dealing rate of the Bank of Mauritius, current at the date that payment becomes overdue, together with such costs as are reasonably incurred by the Architect/Consultant (including costs of time spent by principals, employees and advisers) in obtaining payment of any sums due under the Agreement. Any entitlement to interest at the specified rate shall also apply to any amounts that are awarded in arbitration or legal proceedings.
- 9.7. The Client or the Architect/Consultant shall pay to the other Party who successfully pursues, resists or defends any claim or part of a claim brought by the other:
- 9.7.1. such costs as may be determined by any dispute resolution body to which the matter is referred.

10. Copyright and Licence

- 10.1. Subject to clause 10.2, the Architect/Consultant shall own all intellectual property rights, including the copyright in the drawings and documents produced in performing the Services, and this clause generally asserts the Architect/Consultant's moral right to be identified as the author of such work.
- 10.2. To the extent that fees and other amounts properly due are paid, the Client shall have a licence to copy and use all drawings and documents provided by the Architect/Consultant in either paper or digital formats only for purposes related to construction of the Project or its subsequent use or sale. They may not be used for reproduction of the design for any part of any extension of the Project or any other project.
- 10.3. The Architect/Consultant shall be liable to the Client in respect of any reasonably foreseeable and fully mitigated expenses, losses or damages directly suffered by the Client as a result of the work of the Architect/Consultant being in breach of copyright or any other intellectual rights of any third party.
- 10.4. The Architect/Consultant shall not be liable for any use of the drawings and documents which have been provided in either paper or digital formats other than for the purpose for which they were prepared and provided by the Architect/Consultant.
- 10.5. If at any time the Client is in default of payment of any fees or other amounts properly due, the Architect/Consultant may suspend further use of the licence and any sub-licences for the drawings and documents to which the unpaid monies relate on giving 7 days' notice of the intention to do so. Use of the licence may be resumed on receipt of such outstanding amounts.
- 10.6. The licence shall stay in force, notwithstanding the expiry or termination of the Agreement, unless it is suspended at the date of such expiry or termination.
- 10.7. The Basic Fee for the performance of the Services shall include all royalties, licence fees or similar expenses for the making, use or exercise by the Architect/Consultant of any invention or design patents, etc. for the purpose of performing the Services.

11. Architect/Consultant's Liability

11.1. Limitation of Liability

- 11.1.1. The Architect/Consultant's liability for loss or damage shall not exceed the amount of the Architect/Consultant's professional indemnity insurance specified in Item J of the Particular Conditions.
- 11.1.2. No employee of the Architect/Consultant or any agent of the Architect/Consultant shall be personally liable to the Client for any negligence, default or any other liability whatsoever arising from performance of the Services.

12. Professional Indemnity Insurance

- 12.1. The Architect/Consultant shall maintain professional indemnity insurance in compliance with the Professional Architects' Act and the Professional Architects' Act (Code of Practice) Regulations 2016.
- 12.2. The Architect/Consultant, upon request by the Client, shall produce for inspection any document attesting to or confirming that such an insurance has been obtained and is valid for the specified timeframe.

13. Suspension and Termination

- 13.1. The Architect will give immediate notice in writing to the client of any situation arising from "force majeure" which makes it impracticable to carry out any of the agreed services and agree with the client a suitable course of action.
- 13.2. The Client may suspend or terminate performance of any or all of the Services and other obligations under the Agreement by giving the Architect at least 7 days' written notice and stating the reason for doing so.
- 13.3. The Architect may suspend or terminate performance of any or all of the Services and other obligations under the Agreement by giving the Client at least 7 days' written notice and stating the grounds on which it intends to do so. Such grounds are limited to:
 - 13.3.1. the Client's failure to pay any fees or other amounts due by the Final Date for Payment;
 - 13.3.2. the Client is in material or persistent breach of its obligations under the Agreement;
 - 13.3.3. the Architect is prevented from or impeded in performing the Services for reasons beyond the Architect's control;
 - 13.3.4. any other reasonable grounds of suspension or termination of the Agreement.
- 13.4. In the event of suspension or termination, the Architect/Consultant shall cease performance of the Services and/or other obligations under the Agreement on the expiry of the notice period after receipt or issue of a notice of suspension or termination. In such case the Architect/Consultant shall be entitled to remuneration for services completed.
- 13.5. Where the construction of works is cancelled or postponed on the Client's instructions or the Architect/Consultant is instructed to stop work indefinitely at any time, the commission may be deemed to be abandoned and the fees for the partial service will be due.
- 13.6. Notwithstanding clause 13.5, if instructions necessary for the Architect/Consultant to continue work are not received from the client in writing three months after such were requested, the commission shall be deemed to have been abandoned.

14. Data Protection and Confidentiality

- 14.1. The Parties shall not disclose any personal data or Confidential Information of the other Party unless:
- 14.1.1. disclosure is necessary for the execution of obligations under this Agreement and generally in relation to the execution of Services;
 - 14.1.2. such data or information is already in the public domain other than as a result of the wrongful use or disclosure, in breach of this Agreement, by either Party; and
 - 14.1.3. disclosure is required by law or within any proceeding related to the settlement of any dispute arising out of or in connection with the present Agreement.

15. Dispute Resolution and Governing Law

- 15.1. The Client and the Architect/Consultant may attempt to settle any dispute or difference arising under the Agreement by amicable settlement or arbitration, if suitable, or either party may refer the matter legal proceedings.

15.1.1. Amicable Settlement

The Parties agree to meet and to attempt to amicably settle or resolve any dispute arising out of or in relation to the present Agreement within thirty (30) days of a Party bringing it to the notice of the other Party.

15.1.2. Arbitration

15.1.3. Litigation

- 15.1.3.1. All disputes arising in connection with the present Agreement shall be finally settled by the Courts of the Republic of Mauritius.

- 15.2. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Mauritius.

16. Information Formats

- 16.1. Where produced using CAD, BIM or other proprietary software, drawings and documents shall be provided to the Client in PDF format only, unless an alternative format has been agreed and set out in the Particular Conditions.
- 16.2. Without prejudice to the Architect/Consultant's obligations under the Agreement, the Architect/Consultant does not warrant, expressly or impliedly, the integrity of any electronic data delivered in accordance with the provisions of the Particular Conditions.
- 16.3. The Architect/Consultant shall have no liability to the Client in connection with any corruption or any unintended amendment, modification or alteration of the drawings and documents in digital format which occurs after they have been issued by the Architect/Consultant.

Part 3 Minimum Indicative Fees

An indication of fee scales based on project type is provided below.

Minimum Indicative Percentage Fees for Specific Services - New Build

Table 1

Construction Cost (up to)	Percentage Fee
Rs. 2,500,000	7%
Rs. 5,000,000	6.5%
Rs. 10,000,000	6%
Rs. 20,000,000	5.5%
Rs. 35,000,000	5%
Rs. 50,000,000 and over	4.5%

Minimum Indicative Percentage Fees for Specific Services - Works to Existing & Historic Buildings

Table 2

Construction Cost (up to)	Percentage Fee
Rs. 2,500,000	14%
Rs. 5,000,000	13%
Rs. 10,000,000	12%
Rs. 20,000,000	11%
Rs. 35,000,000	10%
Rs. 50,000,000 and over	9%

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