



## THE PARTY WALL CONSULTANCY

### SUPPLEMENTAL TERMS & CONDITIONS OF ENGAGEMENT 'PARTY WALL APPOINTMENTS'

#### 1.0 Introduction

- 1.1 These Supplemental Terms & Conditions of Engagement relate to 'Party Wall Appointments' and are to be read in conjunction with the General Terms & Conditions of Engagement for Consultancy Services, the Letter of Appointment and the fee proposal letter which will set out, in more specific terms, the nature of the appointment, fee basis and performance timescales together with any information required of the Client/Appointing Owner.
- 1.2 The purpose of these Supplemental Terms & Conditions of Engagement is to identify the scope of services offered by The Party Wall Consultancy, and the personally appointed Surveyor in connection with the service of notices or fulfilment of an appointment under Section 10 of the Party Wall etc. Act 1996 (the "Act").
- 1.3 By instructing The Party Wall Consultancy, the Client/Appointing Owner agrees to be bound by these Supplemental Terms & Conditions of Engagement as well as the General Terms & Conditions of Engagement for Consultancy Services.

#### 2.0 Terminology

- 2.1 **'We / Us'**: The Party Wall Consultancy, or a Surveyor acting for the Party Wall Consultancy engaged on any matter up to formal appointment under Section 10 of the Act.
- 2.2 **'You'**: The Client or Appointing Owner.
- 2.3 **'Consultant'**: The Party Wall Consultancy, or a Surveyor acting for the Party Wall Consultancy engaged on any matter up to formal appointment under Section 10 of the Act.
- 2.4 **'Party Wall Surveyor'**: The personally appointed Surveyor from The Party Wall Consultancy who will fulfil an appointment in accordance with Section 10 of the Act. This may be in the role of either an Agreed Surveyor or a Party-Appointed Surveyor.
- 2.5 **'Client'**: An appointing party prior to the formal appointment of a Party Wall Surveyor under Section 10 of the Act.
- 2.6 **'Appointing Owner'**: An appointing party following the formal appointment of a Party Wall Surveyor under Section 10 of the Act.
- 2.7 **'Schedule'**: A Schedule of Condition appended to an Award.
- 2.8 **'Letter of Appointment'**: The signed authorisation giving the Consultant authority to sign, issue, send, receive and respond to any notices under the Act and fulfil duties under Section 10 of the Act as a Party Wall Surveyor.
- 2.9 **'Appointment'**: The service to be fulfilled by the Consultant.
- 2.9 **'The Property'**: The subject premises to which the appointment relates.
- 2.10 **'Building Owner'**: The party instigating notifiable works under the Act.
- 2.11 **'Adjoining Owner'**: The party owning or occupying a property within the prescribed distance of the Building Owner's property, as prescribed by the Act, who must be notified in accordance with the Act.
- 2.12 **'Award'**: A Party Wall Award signed and served by the Party Wall Surveyor(s).

### **3.0 Scope of Appointment**

- 3.1 The Consultant may be appointed to either provide general pre-dispute advice outside of an appointment under Section 10 of the Act, or in accordance with Section 10 of the Act where a dispute has arisen; in this case the individual Surveyor so appointed shall then be referred to as the 'Party Wall Surveyor'. This may be in the capacity of Building Owner's Surveyor, Adjoining Owner's Surveyor or Agreed Surveyor, where agreed between the parties.
- 3.2 The Client may be either a Building Owner or an Adjoining Owner seeking initial advice prior to the formal appointment of a Party Wall Surveyor under Section 10 of the Act. This may be an organisation or an individual. Where the Client appoints the Consultant in accordance with Section 10 of the Act they shall then be referred to as an 'Appointing Owner'.
- 3.3 Once appointed in accordance with Section 10 of the Act, the Party Wall Surveyor and the Appointing Owner do not assume a traditional Client-Surveyor relationship; this is supplanted by the statutory nature of the appointment, thus the Client shall be known as the 'Appointing Owner'. Where the Consultant is instructed to advise on any Party Wall issues prior to a formal appointment in accordance with the Act, then the traditional Client-Surveyor relationship may exist, but will be supplanted as soon as any appointment in accordance with Section 10 of the Act is made.
- 3.4 The role of the Party Wall Surveyor (either as Building Owner's Surveyor, Adjoining Owner's Surveyor or Agreed Surveyor) is for the purposes of serving and receiving associated notices and preparing the Award and Schedule of Condition as far as the works detailed therein fall under the Act and following the requisite appointment of the Party Wall Surveyor in accordance with the Act.
- 3.5 The Party Wall Surveyor does not assume any designer responsibilities for the awarded works under the CDM Regulations (2007) or otherwise. The Party Wall Surveyor is not a Contract Administrator or Project Manager of the Works and is not engaged to oversee the works in terms of materials & workmanship or statutory compliance.
- 3.6 The Consultant/Party Wall Surveyor cannot and will not be held liable or responsible for the actions of their Client/Appointing Owner, or for failure of their Client/Appointing Owner to comply with their duties under the Act. The Party Wall Surveyor cannot and will not be held liable or responsible for the actions of any other appointed Surveyor under the Award. The Party Wall Surveyor's agreement and signing of an Award shall not be construed as confirmation the works detailed therein comply with any associated statutory regulations. The Award may stipulate that it is conditional on compliance with any associated statutory regulations in undertaking the works so awarded.
- 3.7 All appointments shall be made in writing and authorised by all owners of the property occupied by the appointing party.
- 3.8 The nature of the appointment may include, but is not limited to:
- Advising on the notifiability of proposed works under the Act.
  - Preparation and service of notices in respect of the Building Owner's proposed works.
  - Receiving, reviewing, verifying and responding to notices on behalf of the Adjoining Owner.
  - Preparation and service of an Award.
  - Receiving, reviewing, verifying, agreeing, signing and serving an Award prepared by another Party Wall Surveyor.
  - Preparation of a Schedule of Condition to be included within an Award.
  - Checking the validity and accuracy of a Schedule of Condition prepared by another Party Wall Surveyor. This may include, but is not limited to:
    - Amending or revising a Schedule of Condition prepared by another Party Wall Surveyor.
    - Agreeing a Schedule of Condition prepared by another Party Wall Surveyor.
    - Publishing a revised version of a Schedule of Condition prepared by another Party Wall Surveyor.

- Issuing any associated correspondence, following service of an Award, as deemed necessary under the Act.
  - Checking any awarded works during and on completion.
  - Assessing the nature and cost of any damage caused as a result of the awarded works.
- 3.9 The Consultant/Party Wall Surveyor will undertake the appointment within the timescales specified by the Client/Appointing Owner whilst observing the associated notification timescales set out within the Act. In the first instance the Consultant/Party Wall Surveyor will ascertain any key dates crucial to the appointment.
- 3.10 The Consultant/Party Wall Surveyor will, prior to inspecting the property, review all information and documentation necessary to fulfil the appointment, and where requested, the Client/Appointing Owner will provide the Consultant/Party Wall Surveyor with all information and documentation necessary to fulfil the appointment.
- 3.11 The Consultant/Party Wall Surveyor will conduct all work involved in the preparation of a Party Wall Award in accordance with and under the conditions of The Party Wall etc Act 1996. The Act defines the rights and duties of owners and the duties of their Surveyors in the event of a dispute arising.
- 3.12 If, following appointment in accordance with Section 10 of the Act, the Party Wall Surveyor acting for the Building Owner adduces that further notices are required to be served upon the Adjoining Owner (in respect of additional or modified notifiable works to be undertaken by the Building Owner), he shall serve such additional notices on behalf of the Building Owner and shall continue to be appointed as the Building Owner's Surveyor in the event of the Adjoining Owner's dissent (or deemed dissent) to such notices.
- 3.13 If, following appointment in accordance with Section 10 of the Act, the Party Wall Surveyor acting for the Adjoining Owner receives, on behalf of the Adjoining Owner, further notices pursuant to additional or modified notifiable works proposed by the Building Owner, and in the event the Adjoining Owner elects to dissent or fails to respond to such notices, he shall continue to be appointed as the Adjoining Owner's Surveyor in respect of any matters of dispute arising from such notices reasonably requiring his involvement.

#### **4.0 Extent of Inspection for a Schedule of Condition**

- 4.1 The Consultant/Party Wall Surveyor will carry out the inspection on the assumption the property is safe to enter and inspect. The Client/Appointing Owner will provide the Consultant/Party Wall Surveyor with a copy of any asbestos register, report or record in accordance with the Control of Asbestos at Work Regulations 2006 prior to the inspection along with any other relevant Health & Safety files or information in accordance with the Workplace (Health, Safety & Welfare) Regulations 1992 and The Construction (Design and Management) Regulations 2007.
- 4.2 In the event access to any roof surfaces is required as part of the inspection, which cannot be safely viewed from a ladder less than 3 metres in length, or where the roofs are fragile in nature at any height, it may be necessary to use a roof access hoist. This will incur an additional charge to be agreed with the Client/Appointing Owner at the point of instruction and will be provided by a Third Party.
- 4.3 Unless otherwise indicated, the inspection of the property will be of a visual and non-intrusive nature and will only extend to the demise illustrated in any lease plans or other documents provided by the Client/Appointing Owner. In the event no demise plans are available, the Consultant/Party Wall Surveyor will make an assumption as to the extent of the demise and will communicate this to the Client/Appointing Owner.

- 4.4 The Consultant/Party Wall Surveyor will use all reasonable endeavours to inspect all parts of the property, including safely accessible roof voids, ducts, traps, access/inspection chambers and drains, but will not inspect those parts of the property or its services that are built in, covered up or otherwise made inaccessible in the normal course of construction, fitting out or occupation. The Consultant/Party Wall Surveyor is therefore unable to report that any such parts of the property are free from defect, damage, corrosion, rot or beetle infestation or other general defects.
- 4.5 Unless otherwise instructed, the Consultant/Party Wall Surveyor will not inspect or test any of the water, mechanical, heating, electrical or drainage installations within or around the property. Where appropriate, the Consultant/Party Wall Surveyor will make a recommendation in relation to the execution of specialist tests to establish the condition and existence of any defects; this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.6 Where appropriate, the Consultant/Party Wall Surveyor will make a recommendation for opening up and further investigations or tests to establish the type of concealed construction and its condition; this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.7 If, during the inspection, the Consultant/Party Wall Surveyor considers there to be a significant possibility that deleterious, inferior or hazardous materials exist at the property, further instructions may be sought to carry out a detailed and thorough investigation; this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.8 Unless otherwise instructed, the Consultant/Party Wall Surveyor will not take any samples of suspected deleterious, inferior or hazardous materials from the property for laboratory testing. This can be undertaken upon receipt of the Client's/Appointing Owner's further instructions, but this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.9 Unless otherwise instructed, the Consultant/Party Wall Surveyor will not pass comment upon the apparent existence of contamination or pollution at or in the area of the property, the impact of past, existing or proposed uses of the property on its immediate environment or other environmental issues such as the energy efficiency of the building or the property. This can be undertaken upon receipt of the Client's/Appointing Owner's further instructions, but this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.10 The Schedule does not constitute an Environmental Audit or Survey and nothing contained in it should be treated as a statement that there is no contamination, pollution or flooding problems relating to the property or confirmation that the property or any process carried out therein complies with existing or proposed legislation. Further investigation of these matters can be undertaken upon receipt of the Client's/Appointing Owner's further instructions, but this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.11 The Schedule does not constitute an overview as to the presence or existence of low frequency electronic fields, electro-magnetic radiation, radon, toxic mould, calcium chloride, lead based paints, Japanese knotweed or similar controversial environmental issues, all of which are considered to be outside the scope of the appointment. Further investigation of these matters can be undertaken upon receipt of the Client's/Appointing Owner's further instructions, but this may require the appointment of a specialist Sub-Consultant and may incur an additional fee.
- 4.12 The Schedule does not extend to searches with the National Coal Board or other statutory bodies to establish whether the property is affected by subsidence as a result of mining or tunnelling operations.
- 4.13 The Schedule will not review or take in to account mining, geological and soil investigation reports prepared by others and will not therefore certify that any land is capable of development or redevelopment at reasonable cost.

- 4.14 The Schedule does not constitute an overview as to the suitability of the property for any use or potential use or as a redevelopment site.
- 4.15 The Schedule does not constitute an overview as to the suitability of the existing or proposed use in terms of the Use Class currently assigned to the property.
- 4.16 The inspection will not involve a review as to the general compliance of the premises with current statutory requirements and regulations. This includes, but is not limited to, Planning legislation, Building Regulations, Fire Regulations/Precautions and Workplace Regulations, where applicable. The inspection or resultant Schedule does not constitute a risk assessment to satisfy the requirements of any such legislation which is considered to be outside the scope of the appointment.
- 4.17 The Schedule will not review the energy efficiency or air tightness of the building. In particular, the Schedule will not review the premises in terms of 'Part L' of the Building Regulations or the European Union's Directive on 'Energy Performance in Buildings'.
- 4.18 Unless otherwise stated, it shall be assumed that all necessary permanent planning and other consents, approvals and permissions have been obtained for the construction and current use of the property and that there are no outstanding enforcement or other notices.
- 4.19 Unless otherwise stated, no information shall be ascertained or adduced in respect of any dispute or claim with Adjoining Owners or neighbouring properties, or indeed the impact of works undertaken to adjacent sites that may impact on any future development or redevelopment proposals for the site (i.e. special foundations to adjoining premises or oversailing).
- 4.20 The Schedule will not review or comment upon the existence of any major risk hazards, easements, rights of light issues or matters concerning rights of support.

## **5.0 Appointment Fees**

5.1 Appointment fees will be agreed directly with the Client/Appointing Owner on each and every instruction and will be quoted exclusive of VAT. In the absence of a specific agreed fee, the following fee basis will apply if appointed in the role of Consultant or Party Wall Surveyor

5.2 Time Charge:

- Surveyor - £135.00 per hour.
- Consultant - £165.00 per hour.
- Director - £250.00 per hour.
- Expert Witness - £300.00 per hour.

5.3 Fixed Fees:

- Minimum Fixed fee for the preparation and service of Notices - £200.00 per notice.
- Minimum Fixed Fee for preparation and service of an Award (as Agreed Surveyor) - £1,350.00.
- Minimum Fixed Fee for preparation and service of an Award (as Party-Appointed Surveyor) - £1,500.00.
- Minimum Fixed Fee for preparation of a Schedule of Condition (if not included in the Award fee) - £450.00.
- Minimum Fixed Fee for verification of a Schedule of Condition prepared by another party (if not included in the Award fee) - £300.00.

- 5.4 The Client/Appointing Owner will settle any fee account due on completion of the appointment task, or at an agreed interim stage. In general, fees for the preparation and service of an Award will become payable immediately upon service of the Award.
- 5.5 Where appointed by the Adjoining Owner, the fee account of the Party Wall Surveyor may be invoiced to the Appointing Owner directly in the event the Award does not state that the Building Owner is directly responsible for the Adjoining Owner's Surveyor's fees, or where the Building Owner is insolvent or in any way unable to settle the account of the Adjoining Owner's Surveyor within a reasonable timeframe.
- 5.6 Time Charge fees shall be charged in 6 minute intervals and rounded up to the nearest quarter hour for invoicing.
- 5.7 Accountable Time shall be deemed to include: site visits, travel time, letters, emails, phonecalls, conference calls, meetings, reviewing documentation, reviewing and taking instructions and arranging access.
- 5.8 All fixed fees are quoted on the basis of one inspection, unless stated otherwise. Additional visits shall be charged on the basis of time expended at the agreed time charge rate.
- 5.9 In the event out of hours working is required to meet the requirements of the Client/Appointing Owner, or any associated deadline imposed by their proposed actions, time charge fees shall be charged at 150% of the standard rates set out in section 5.2. Fixed fees shall be adjusted at a multiplier of 1.5 of the original fee.
- 5.10 All fees attract VAT at the standard prevailing rate.

## **6.0 Abortive Fees**

- 6.1 Abortive fees where the Consultant is acting outside of an appointment under Section 10 of the Act shall be chargeable upon the Client's termination of the Consultant's services. This will generally be based upon a reasonable account of the work completed up to the point of termination, but subject to a minimum charge as follows:
- Time charge appointments – An account of time expended at the agreed hourly rate, or in the absence of an agreed hourly rate, in accordance with the rates as set out in section 5.2. In all circumstances a minimum fee of £300.00 plus VAT will become due.
  - Fixed Fees – Minimum of 50% of the agreed total fee due, unless the task was more than 75% complete at the point of termination, whereby 100% of the fee will become due.
- 6.2 Where any Sub-Consultant has been appointed by The Party Wall Consultancy on behalf of the Client/Appointing Owner, then any fees due to the Sub-Consultant at the point of termination shall also become chargeable to the Client/Appointing Owner on the basis set out in section 6.1.
- 6.3 Where appointed in accordance with Section 10 of the Act by the Adjoining Owner, a parallel contractual obligation arises whereby the Party Wall Surveyor may seek redress directly from the Adjoining Owner for payment of fees in the event the Building Owner defaults having been awarded sole or partial liability for such fees. Accordingly, the Appointing Owner may, by default, be contractually obligated to service any such debt due to the Party Wall Surveyor even if they were not ordered to pay the Party Wall Surveyor fees pursuant to the Act.
- 6.4 Where appointed by the Adjoining Owner either in the capacity of 'Adjoining Owner's Surveyor' under Section 10(1)(b) of the Act, or as 'Agreed Surveyor' under Section 10(1)(a) of the Act in circumstances where the Building Owner is ordinarily liable for all Party Wall professional fees, the Adjoining Owner may still become liable for the fees of the Party Wall Surveyor where the Adjoining Owner has

invoked the involvement of the Party Wall Surveyor in such a way that such fees cannot reasonably be awarded against the Building Owner.

- 6.5 Where the parties to a dispute under the Act mutually agree to contract outside the Act in order to settle their dispute, or dispense with their dispute such that the Act no longer applies, any fees due to the Party Wall Surveyor so appointed shall be contractually payable in accordance with section 6.1.

## **7.0 Sub-Consultants**

- 7.1 In the event the Consultant/Party Wall Surveyor is required to appoint a Sub-Consultant on behalf of the Client/Appointing Owner, then the fees of that Sub-Consultant shall be submitted to the Appointing Owner, or the responsible party directly, and as such, the Sub-Consultant will engage directly with the Appointing Owner or responsible party regarding defrayment.

- 7.2 The abortive fees of any Sub-Consultant shall be on the same basis as set out under section 6.0.

## **8.0 Involvement Prior to Formal Instruction (Pre-Appointment Fees)**

- 8.1 The Party Wall Consultancy reserves the right to make a charge for any required initial advice or detailed scrutiny of any documentation prior to formal appointment on the basis of an agreed time charge rate in addition to any subsequently agreed fee pertinent to the formal instruction. In the absence of agreement on the time charge rate to be applied, the rates detailed in section 5.2 above shall apply. The Party Wall Consultancy may agree, at its discretion, to waive any such pre-appointment fees or offset them against a subsequent formal appointment fee.

## **9.0 Disbursements**

- 9.1 Unless stated otherwise, all disbursements shall be in addition to the stated fee. This extends to travel costs, stationery, postage and general out of pocket expenses. Travel costs shall be charged at 50 pence per mile where travelling by car. Travel costs for train, bus, taxi, ferry, boat or plane shall be charged at the operator cost, plus 20% for administration.

- 9.2 Disbursements for roof access shall not be included in any stated fee and shall be identified separately. Unless stated otherwise, the minimum costs in this regard are as follows:

- 2-Section Ladder - £85.00 + VAT for 1 day of hire (including delivery and collection), plus arrangement & attendance fee of £65.00.
- 3-Section Ladder - £125.00 + VAT for 1 day of hire (including delivery and collection), plus arrangement & attendance fee of £85.00.
- Cherry Picker (standard 16m boom) - £450.00 + VAT for 1 day of hire, plus arrangement & attendance fee of £95.00 + VAT.

- 9.3 Duplication of documents and Awards shall be chargeable as a disbursement as follows:

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|---|-----------------|
| • Award (without drawings or Schedule of Condition)                   | £20.00 per copy |
| • Award (with drawings)   | £30.00 per copy |
| • Award (with Schedule of Condition incl. colour photos)              | £40.00 per copy |
| • Award (with drawings and Schedule of Condition incl. colour photos) | £45.00 per copy |
| • Photo CD  | £8.00 per CD    |

(The above charges exclude postage and packaging which shall be charged at cost).

- 9.4 Travel time shall be charged at the agreed standard hourly rate of the Appointed Surveyor.

## **10.0 Client's/Appointing Owner's Duties**

- 10.1 The Client/Appointing Owner shall provide the Consultant/Party Wall Surveyor, at the point of instruction, with a copy of any available asbestos register, report, record or other such associated information to inform the Surveyor as to the existence and location of any known asbestos within the property.
- 10.2 The Client/Appointing Owner shall ensure that funds are readily available to settle the Consultant's/Party Wall Surveyor's fee account within 14 days of receiving an invoice in respect of work undertaken in accordance with the Client's/Appointing Owner's instructions, or in the case of service of an Award, the Appointing Owner will settle the Party Wall Surveyor's account immediately upon service of the Award.
- 10.3 The Client/Appointing Owner shall ensure the Consultant/Party Wall Surveyor is granted full and unhindered access to the premises in order to undertake the inspection, or provide such necessary information as to access arrangements.
- 10.4 The Client/Appointing Owner shall ensure the subject premises are fully and properly insured for the duration of any works being undertaken.
- 10.5 The Client/Appointing Owner shall ensure the Consultant/Party Wall Surveyor is in receipt of all information to allow the proper and safe undertaking of the appointment without unknowingly being exposed to fraud, deceit, money laundering or being complicit in any other such immoral action which may or may not be an intention of the Client/Appointing Owner.
- 10.6 Where the Client/Appointing Owner has self-served Notice(s), the Consultant/Party Wall Surveyor reserves the right to verify the validity of the Notice(s) prior to accepting an appointment to act as Party Wall Surveyor, and if necessary, will revise and reissue Notice(s) to ensure validity; all associated costs shall be chargeable to the Client/Appointing Owner in accordance with the rates as set out in section 5.3.

## **11.0 General Exclusions**

- 11.1 The Party Wall Consultancy will not be responsible for the direct payment of any fees incurred by the appointment of other Consultants or Sub-Consultants, whether or not connected to, or associated with, the Consultant's/Party Wall Surveyor's appointment. Any other Consultant, Sub-Consultant or Third Party appointments are to be made and paid for directly by the Client/Appointing Owner.
- 11.2 Where another Consultant's document or a Third Party document is to be appended to an Award prepared and issued by The Party Wall Consultancy, no liability is accepted by The Party Wall Consultancy for the content of any such reports, attachments or enclosures.
- 11.3 The Party Wall Consultancy accepts no liability for the actions of other Consultants, Sub-Consultants, Contractors or third parties directly appointed by the Client/Appointing Owner on the same project or instruction.
- 11.4 No Schedule prepared by The Party Wall Consultancy shall be deemed to be an exhaustive account of all repairs required to the property.

## **12.0 Reproduction of Information & Copyright**

- 12.1 Any Schedules, Awards or associated documents prepared or issued by The Party Wall Consultancy are for the sole use only of the parties to whom they are addressed and should only be used within

the context of the instructions under which they were prepared. They may only be disclosed to other professional advisers assisting in respect of that purpose by prior agreement. No responsibility to any Third Party for the whole or any part of the contents is accepted.

- 12.2 All advice given by The Party Wall Consultancy, its Consultants or Sub-Consultants under this appointment is for the sole use of the Appointing Owner and is confidential to the Appointing Owner and their professional advisers, unless the subject of an Award. The Party Wall Consultancy accepts responsibility to the Appointing Owner alone for any such advice and absolutely no responsibility or liability whatsoever is accepted or owed to any Third Party who relies on all or part of any such advice; this shall be entirely at their own risk. All advice will be given with the skill, care and diligence reasonably to be expected of a competent Surveyor. For the purposes of the Contracts (Rights of Third Parties) Act 1999, it is hereby agreed that any appointment accepted by The Party Wall Consultancy or any of its Consultants or Sub-Consultants is on the basis that no benefit or right exists to a Third Party with regard to the use of any advice given by The Party Wall Consultancy.
- 12.3 Neither the whole nor any part of any Schedule, Award or associated document prepared or issued by The Party Wall Consultancy may be included in any published document, circular or statement or published in any way without the prior written approval of The Party Wall Consultancy in the form and context in which it may appear.
- 12.4 No reliance will be placed by the Client/Appointing Owner upon draft documents or incomplete documents or advice (oral or written) provided by The Party Wall Consultancy, its Consultants or Sub-Consultants as these may vary significantly from any final document.
- 12.5 The Party Wall Consultancy reserves the right to withdraw from circulation, without prior notice, any Schedule, Award or correspondence for the purposes of revision or amendment.
- 12.6 All Schedules prepared and issued by The Party Wall Consultancy is copyrighted and protected by copyright law.
- 12.7 The term 'The Party Wall Consultancy' is a trade mark owned by and belonging to The Dilapidations Consultancy Limited. The Party Wall Consultancy logo is a trade mark owned by and belonging to The Dilapidations Consultancy Limited.

### **13.0 Confidentiality & Third Party Rights**

- 13.1 All advice provided by The Party Wall Consultancy, either orally or in any written media, is for the sole and exclusive use of the Client/Appointing Owner and is confidential to the Client/Appointing Owner and any associated professional advisers. The Party Wall Consultancy accepts responsibility to the Client/Appointing Owner alone for the stated purposes of the advice.
- 13.2 All advice provided by The Party Wall Consultancy Limited, either orally or in any written media, will be given with the skill, care and diligence reasonably to be expected of a competent Surveyor and shall be used within the context of the instructions under which they were prepared. No responsibility whatsoever is accepted by The Party Wall Consultancy to any other person other than the Client/Appointing Owner.
- 13.3 No benefit or right exists to a Third Party in respect of any advice given by The Party Wall Consultancy, either orally or in any written media, for the purposes of the Contracts (Rights of Third Parties) Act 1999. Any party relying on any advice given by The Party Wall Consultancy, either orally or in any written media, does so at their own risk.

### **14.0 Terms of Payment**

- 14.1 Service charges on outstanding accounts:

All accounts are to be settled in full within 14 days of the invoice date (the 'due date'). Invoices in respect of the **preparation and service of Party Wall Awards** are due for settlement **immediately** upon the service of the Award(s) on the respective parties allowing for the ordinary course of post. The due date shall therefore be the 2 working days following the date of service of the Award(s).

A service charge of £30.00 plus VAT or 3% of the unpaid balance plus VAT, whichever is the greater, shall be applied **every week or part thereof** to outstanding balances not received by the due date in respect of fees determined in a Party Wall Award where we are appointed in the capacity of either the 'Building Owner's Surveyor' pursuant to Section 10(1)(b) of the Act, or the 'Agreed Surveyor' pursuant to Section 10(1)(a) of the Act. A service charge of £30.00 plus VAT or 3% of the unpaid balance plus VAT, whichever is the greater, shall be applied **every month or part thereof** to outstanding balances not received by the due date for all other fees. We reserve the right to vary the service charge and rate of interest without further notice.

Any account which remains outstanding 60 days beyond the due date may be passed to Debt Collectors without further notice and such accounts would then be subject to an additional minimum surcharge of £125.00 plus VAT to cover the administrative costs incurred. Such accounts shall also be subject to any and all other costs incurred in obtaining settlement. Accounts outstanding after 30 days from the invoice date for the preparation and service of Party Wall Awards or in respect of any post-Award involvement pursuant to Section 10(1) of the Act shall be recovered through the Magistrates' Court pursuant to section 17 of the Act.

#### 14.2 Retention of Title:

All goods, documents and correspondence shall remain the property of The Party Wall Consultancy until the invoice has been paid in full and the Appointing Owner shall remain a bailee until payment is made in full.

#### 14.3 Complaints and Discrepancies:

Any complaint by the Appointing Owner and/or discrepancy relating to this invoice must be notified by the Appointing Owner to The Party Wall Consultancy *in writing* within 5 days of the date on the invoice. A copy of our Complaints Handling Procedure is available upon request but shall not apply to appointments held under Section 10 of the Act.

#### 14.4 Compensation on Debts:

The Party Wall Consultancy reserves the right to seek financial compensation for the inconvenience of chasing outstanding fee accounts under the Late Payment of Commercial Debts (Interest) Act 1998. This is to include interest at 8% above Bank of England base rate.

### 15.0 Company Title

15.1 'The Party Wall Consultancy' is a trading name of The Dilapidations Consultancy Limited, registered in England & Wales (No. 06424855).