



These terms and conditions shall govern the Contract between (1) Cochrane Design Limited trading as 'Cochrane Design' a company registered in England and Wales with company registration number 05385174 and whose registered office is Regina House, 124 Finchley Road, London, NW3 5JS ("**Cochrane Design**") and (2) the Client ("**the Client**"). Cochrane Design may agree changes to the Conditions but such changes must be in writing, signed by a Director of Cochrane Design and cannot be inferred from a course of behaviour. Where any of these provisions conflict with any special terms that are expressly agreed in writing with the Client in relation to a particular piece of work, then the special terms shall take precedence.

## 1. INTERPRETATION

In these Conditions, the following definitions apply:

<b>Business Day:</b>	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
<b>CDM Regulations:</b>	Construction (Design and Management) Regulations 2015.
<b>Conditions:</b>	these terms and conditions as amended from time to time.
<b>Contract:</b>	the contract between Cochrane Design and the Client for the supply of Services in accordance with the Conditions.
<b>FF&amp;E:</b>	furniture, fittings and equipment.
<b>Intellectual Property Rights:</b>	copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.
<b>Project:</b>	the Project specified in the Proposal.
<b>Project Fees:</b>	the fees and expenses payable by the Client for the Services, including the price and fees for any FF&E.
<b>Proposal:</b>	the proposal prepared by Cochrane Design and sent to the Client setting out details of the Services, the Project and the Project Fees.
<b>Services:</b>	the services, supplied by Cochrane Design to the Client.



In the Conditions, the following rules apply:

- 1.1 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2 any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 1.3 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders; and
- 1.4 a reference to **writing** or **written** includes faxes and e-mails.

## 2. SCOPE OF THE CONTRACT

- 2.1 Cochrane Design is an independent creative studio whose work includes design, consultancy and project management services in relation to clients' interior and exterior environment (excluding architecture).
- 2.2 Cochrane Design will:
  - 2.2.1 provide the Services to the Client using reasonable skill and care unless prevented by circumstances beyond its reasonable control; and
  - 2.2.2 keep the Client regularly informed of progress of the Project.
- 2.3 The Contract shall come into existence when Cochrane Design receives the written acceptance of a Proposal from the Client.
- 2.4 The Client should read these Conditions carefully, and check that the details in the Proposal are complete and accurate, before it accepts the Proposal. If the Client thinks that there is a mistake or requires any changes, he should contact Cochrane Design prior to accepting the Proposal.
- 2.5 A Proposal shall remain open for acceptance for three months from the date it is received by the Client, although Cochrane Design reserve the right to withdraw a Proposal at any time prior to its acceptance.
- 2.6 Cochrane Design will accept and act upon instructions communicated to it by any means by the Client and/or his authorised persons and is not obliged to seek confirmation of such instructions.
- 2.7 During the course of the Services, Cochrane Design or the Client may suggest changes to the Proposal. Any changes must always be agreed in writing.
- 2.8 The client is entitled to one set of amendments for issued schemes. Subsequent changes after the initial amendments will be charged at our standard hourly rate.



- 2.9 All original preparatory and development materials including sketches, brochures, models, notes, mood boards produced by Cochrane Design as part of the Services remains the property of Cochrane Design unless otherwise agreed in writing and shall be promptly returned to Cochrane Design undamaged and unmarked at the conclusion of the Services or upon the request of Cochrane Design.

### 3. INFORMATION ABOUT COCHRANE DESIGN

- 3.1 Cochrane Design is a company registered in England and Wales with company registration number 05385174 and whose registered office is Regina House, 124 Finchley Road, London, NW3 5JS.
- 3.2 If the Client has any questions or in the unlikely event that he has any complaints, he should contact Cochrane Design by telephoning 0207 751 0075 or by e-mailing [info@cochranedesign.com](mailto:info@cochranedesign.com) or the contact email address provided.
- 3.3 If the Client wishes to contact Cochrane Design in writing, or if any clause in the Conditions requires him to give notice in writing, he can send this to Cochrane Design by e-mail, by hand, or by pre-paid post to Cochrane Design, Britannia House, Britannia Way, Fulham, London, SW6 2HJ.

### 4. CLIENT'S OBLIGATIONS

- 4.1 The Client shall be responsible for promptly providing Cochrane Design with all necessary instructions, information and support required to enable Cochrane Design to perform the Services. The Client accepts that these instructions and information are vital to allow Cochrane Design to perform the Services and Cochrane Design shall not be responsible for any shortcomings or inaccuracy of such information.
- 4.2 The Client shall hold all third parties involved in connection with the Project as responsible for the competence and performance of their own work including compliance with health and safety legislation, carrying out works and management and will not hold out Cochrane Design as responsible for acts or omissions of these third parties. Cochrane Design does not warrant the competency or solvency of third parties involved with the Project.
- 4.3 Unless otherwise agreed in the Proposal, the Client shall be responsible for obtaining all necessary permissions, licences and consents under any planning or building legislation in any jurisdiction which may be required for the provision of the Services. If it is agreed that Cochrane Design will be responsible for obtaining these, it does not warrant that they will be granted.
- 4.4 The Client shall be responsible for confirming that the Project has completed in accordance with any agreed time schedule contained in the Proposal, or as subsequently agreed between the parties in writing, and generally in a timely manner. If the Client requests changes to the Project after it has been accepted then Cochrane Design reserves the right to charge the Client extra fees at a rate to be agreed with the Client in writing.
- 4.5 Where there is a delay in accepting the Project that is caused by the Client, or if the Client requests Cochrane Design to make changes to the Project that he has previously accepted, this is likely to affect the ability of Cochrane Design to meet deadlines and lead-times with other clients. Cochrane Design reserves



the right in such circumstances to require any time schedule with the Client to be adjusted accordingly to enable Cochrane Design to meet commitments with other clients.

4.6 Where Cochrane Design is to provide the Services at the Client's or a third party's premises, the Client shall:

4.6.1 ensure that Cochrane Design has access to those premises as reasonably required; and

4.6.2 ensure all materials, equipment, documents and other property of Cochrane Design, or its agents, employees or subcontractors, that is kept at such premises is safe, kept in good condition until returned to Cochrane Design, and shall not be disposed of or used other than in accordance with Cochrane Design's written instructions.

## 5. PITCHES

5.1 All Intellectual Property Rights in and title to any material created or developed by Cochrane Design and shown at a pitch remain with Cochrane Design.

5.2 All materials, ideas and concepts which are disclosed to a Client as part of a pitch are confidential and shall remain the property of Cochrane Design. The Client shall not use any such materials, ideas or concepts himself, or disclose them to a third party, without the written consent of Cochrane Design.

5.3 All pitch materials that Cochrane Design discloses to the Client during the pitch including photography, brochures, mood boards, catalogues, sketches and notes must, unless otherwise agreed by Cochrane Design, be returned to Cochrane Design at the end of the pitch. The Client shall not make copies of any of the pitch materials without the written consent of Cochrane Design.

## 6. DELIVERY

6.1 Cochrane Design will use its reasonable endeavours to meet the Client's timescales however the Client understands that the delivery times of the Project stated in the Proposal are only reasonable estimates. The Client also understands that Cochrane Design shall not be responsible for any delay that is caused due to circumstances beyond its reasonable control. Time shall not be of the essence unless agreed in writing.

6.2 The Client will supply Cochrane Design with all materials required to carry out the Services in a timely manner and the Client recognises that failure to do so is likely to result in delays and/or extra fees being incurred.

## 7. PAYMENT

7.1 The Client shall pay the Project Fees for the Services. In addition the Client shall be responsible for all reasonable costs and expenses incurred by Cochrane Design in the delivery of the Services including materials, courier fees, travel, reprographics, accommodation and subsistence which will be charged to the Client at cost and itemised on the invoice. VAT and any other local taxes will be charged as appropriate.



- 7.2 Any estimate given of the Project Fees is based upon information available to Cochrane Design and Cochrane Design's hourly rates (details of which are available on request) at the time the Proposal is sent to the Client. All estimates must be treated as an estimate only.
- 7.3 Cochrane Design will require a non-refundable deposit of a sum equal to a percentage of the Project Fees, as set out in the Proposal, to be paid when the Client sends Cochrane Design its written acceptance of the Proposal, unless otherwise agreed in writing. Cochrane Design will invoice the remainder of the Project Fees to the Client either on a monthly basis or on completion of a particular stage of the Project as set out in the Proposal.
- 7.4 The Client must contact Cochrane Design with any queries concerning an invoice within 5 Business Days of receipt.
- 7.5 Payment of the Project Fees shall be made in GB Pounds Sterling within 7 days of the date of the invoice. Payment shall be made by electronic transfer to Cochrane Design's bank account. Cochrane Design shall be entitled to charge interest at 10% per annum from 14 days after the invoice date until the actual date of payment.
- 7.6 The Client may not withhold payment of any part of the Project Fees or other monies due to Cochrane Design by reason of claims or alleged claims against Cochrane Design, unless the amount to be withheld has been agreed in writing by Cochrane Design as due to the Client.

## 8. INTELLECTUAL PROPERTY

- 8.1 Cochrane Design shall own all Intellectual Property Rights in all drawings, documents and work produced as part of the Services.
- 8.2 On completion of the Services and payment of the Project Fees in full the Client shall receive (subject to any third party rights in the work as identified by Cochrane Design) a licence to use and allow others to use the drawings, documents and work produced as part of the Services but only for purposes related to the Project.

### 8.3 Moral Rights

Cochrane Design hereby reserves and asserts all moral rights in the work created during the Services.

### 8.4 Originality

Cochrane Design warrants that its own design work is original and that it will not knowingly or negligently infringe the Intellectual Property Rights of a third party. Unless expressly agreed in writing by Cochrane Design, it is the Client's responsibility, not Cochrane Design's, to make all appropriate searches or enquiries in this regard. Beyond the scope of this warranty, Cochrane Design shall have no liability to the Client in respect of any infringement or alleged infringement of a third party's Intellectual Property Rights or for passing off.



## 9. FURNITURE, FITTINGS AND EQUIPMENT

- 9.1 If Cochrane Design is instructed as part of the Services to identify and source FF&E from third party suppliers, Cochrane Design shall use reasonable endeavours to ensure any FF&E are of satisfactory quality and are fit for purpose however Cochrane Design shall not be liable in respect of the quality or fitness of FF&E.
- 9.2 Cochrane Design shall arrange for the delivery of FF&E to the Client's property however will not be liable if the supplier fails to deliver within the stated time.
- 9.3 Title to the FF&E sources by Cochrane Design shall remain with Cochrane Design until payment of the Project Fees has been received in full. Cochrane Design reserves the right to enter onto the Client's property to remove, retake possession and dispose of FF&E in any manner it sees fit if the Project Fees remain outstanding after the due date.
- 9.4 Following the delivery of any FF&E to the Client's property, risk in the FF&E shall pass to the Client.
- 9.5 Cochrane Design shall be entitled to charge the Client a commission for sourcing FF&E on behalf of the Client which shall be included as part of the Project Fees. Cochrane Design will also charge the client for any Samples purchased on their behalf.

## 10. CANCELLATION AND SUSPENSION OF CONTRACT

- 10.1 The Client has the right to cancel the Contract at any time by providing written notice to Cochrane Design.
- 10.2 If the Client cancels the contract within 14 calendar days of accepting the Proposal, Cochrane Design will refund any of the Project Fees that have been paid to it unless Cochrane Design has already started the Services in which case the Client will pay Cochrane Design for any fees and expenses reasonably incurred by Cochrane Design in starting the Services. These fees and expenses will be deducted from any refund that is due to the Client or, if no refund is due, invoiced to the Client.
- 10.3 If the Client cancels the Contract after 14 calendar days of accepting the Proposal he must provide 10 Business Days' notice to Cochrane Design.
- 10.4 On cancellation, Cochrane Design shall send the Client an invoice (which shall be payable on receipt) for:
- 10.4.1 all expenses already incurred;
  - 10.4.2 work performed up to the point of cancellation on a time basis (including work performed by its subcontractors);
  - 10.4.3 third party costs commissioned by Cochrane Design which cannot be cancelled.
- 10.5 Cochrane Design shall be entitled to cancel the Contract immediately if:



- 10.5.1 any part of the Project Fees are outstanding 30 days after the due date;
  - 10.5.2 the Client is declared bankrupt or makes any arrangement with or for the benefit of his creditors or has a county court administration order made against him under the County Court Act 1984; or
  - 10.5.3 in its reasonable opinion the continuing involvement with the Client or the Services might be inappropriate in the circumstances, (such as where the relationship has, in Cochrane Design's reasonable opinion, broken down) or is damaging to the goodwill or reputation of Cochrane Design or the nature of the Project has materially changed.
- 10.6 The Client may suspend provision of the Services for up to 60 days by giving Cochrane Design at least 5 Business Days' written notice together with an explanation for such suspension and in such circumstances Cochrane Design shall be entitled to invoice the Client for:
- 10.6.1 all expenses already incurred;
  - 10.6.2 work performed up to the point of suspension on a time basis (including work performed by its subcontractors); and
  - 10.6.3 third party costs commissioned by Cochrane Design which cannot be suspended or cancelled.
- 10.7 If the provision of the Services has been suspended for a period over 60 days then Cochrane Design shall be entitled by written notice to cancel the Contract immediately.
- 10.8 When the Services are to resume following any period of suspension of longer than 10 Business Days, Cochrane Design reserves the right to review the Project Fees (or third party fees where applicable) stated in the Proposal. In such circumstances, previously agreed time schedules for delivery of the Services will not apply and the Client and Cochrane Design will agree a new timetable for delivery.

## 11. CDM REGULATIONS

- 11.1 Where applicable, Cochrane Design shall comply with all obligations imposed on it by the CDM Regulations in its capacity as "Designer" or, where there is more than one contractor on a Project, its capacity as "Principal Designer" if so appointed in writing by the Client.
- 11.2 The Client warrants that it understands and shall comply with its duties under the CDM Regulations.
- 11.3 The Client may appoint Cochrane Design as "Principal Designer". The Client will ensure that it makes such appointment in writing, as soon as is practicable, and in any event before the construction phase of the Project begins. The Client shall only appoint Cochrane Design as "Principal Designer" where it has taken reasonable steps to satisfy itself that Cochrane Design has the skills, knowledge, experience, and organisational capacity necessary to fulfil the role in a manner that secures the health and safety of any person affected by the Project.



- 11.4 The Client shall ensure that the contractor or where applicable Principal Contractor will fulfil the duties in CDM Regulation 4(1) – (7) and 6. Where Cochrane Design is appointed as Principal Designer it shall only fulfil the duties in CDM Regulation 4(1) – (7) and 6 in place of the contractor if there is a written agreement between Cochrane Design and the Client to fulfil those duties.
- 11.5 Where there is more than one contractor on the Project, the Client shall ensure that appointments are changed or renewed as necessary to ensure that there is at all times until the end of the pre-construction phase of the Project a Principal Designer, and until the end of the construction phase of the Project a Principal Contractor. For any period where no person is appointed, then the designer in control of the pre-construction phase of the Project is the Principal Designer and the contractor in control of the construction phase of the Project is the Principal Contractor.
- 11.6 Where Cochrane Design is appointed as “Principal Designer” it may charge the Client for that service.
- 11.7 Cochrane Design may appoint a third party, at the expense of the Client to be agreed with the Client in advance, to assist it in compliance with its obligations as “Principal Designer”.

## 12. DUTY OF CONFIDENTIALITY AND DATA PROTECTION

- 12.1 Each party owes a duty to preserve the confidential information of the other and will comply with the other’s reasonable requirements in this regard. The Client recognises that Cochrane Design’s methods of working and pricing structures are not in the public domain.
- 12.2 Cochrane Design rely upon the Client to inform it if any information or material supplied to Cochrane Design in connection with the provision of the Services is particularly confidential and where appropriate, all such materials supplied to Cochrane Design should be marked accordingly.
- 12.3 Cochrane Design will use any personal information provided to it by the Client to:
- 12.3.1 provide the Services;
  - 12.3.2 process the payment of the Project Fees; and
  - 12.3.3 inform clients about further or similar services that Cochrane Design provide. The Client may stop receiving these at any time by contacting Cochrane Design.
- 12.4 Cochrane Design will not give any personal data supplied to it by the Client to any other third party, other than for the purposes related to the Project.

## 13. LIMITATION OF LIABILITY (THE CLIENT’S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE)

- 13.1 The liability of Cochrane Design under the Contract or in tort (other than in respect of death or personal injury caused by the negligence of Cochrane Design or its agents), shall not exceed the greater of the sums paid by the Client under the Contract or such sum that is received by Cochrane Design in respect of a claim



under any insurance policy effected by Cochrane Design from time to time.

13.2 Cochrane Design shall not be liable to the Client for:

- 13.2.1 any indirect or consequential loss, loss of profit, loss of business, business interruption, or loss of business opportunity;
- 13.2.2 any default or delay of any third party or subcontractor, manufacturer or supplier but will give all reasonable assistance to permit the Client to enforce its rights against them to include assigning all of its rights to the Client; or
- 13.2.3 any act or omission by any third party (e.g. other contractors) with whom Cochrane Design has been requested or required by the Client to work with in connection with the provision of the Services.

13.3 The Client shall not bring an action or proceedings arising out of or in connection with this Contract, whether in contract, tort, statutory duty or otherwise after the date that the Client has confirmed in writing that the Project has completed.

13.4 No employee, officer, director or agent of Cochrane Design shall be personally liable to the Client for any negligence, default or any other liability arising out of or in connection with the performance of the Services.

13.5 Where an error is found in the Project (of whatever nature) which is the responsibility of Cochrane Design, then to the extent permitted by law, the liability of Cochrane Design shall be limited to correcting or replacing (as appropriate) the Project.

13.6 Cochrane Design shall not 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 including natural disasters, acts of God, acts of terrorism, civil unrest, strikes or interruptions by utility services. In such circumstances Cochrane Design shall be entitled to a reasonable extension of the time for performing such obligations under the Contract. If the period of delay or non-performance continues for 4 weeks, the Client may cancel the Contract in accordance with clause 10.

13.7 Cochrane Design will maintain professional indemnity insurance in respect of the Services and will produce to the Client on request evidence that the insurance is in place and is being maintained.

#### 14. PUBLICITY AND EXAMPLES

Cochrane Design shall have the right to take photographs of the Project and to publish these photographs on its publications including its website, in case study examples and in any publication or collection of Cochrane Design's work or in relation to any awards or public recognition.

#### 15. LEGAL

