

NTB - CONSULTANCY AGREEMENT FOR FEASIBILITY DESIGN WORK

CONTRACT DETAILS:

DATE:

[Contract No:]	[CONTRACT NUMBER]
Client:	[COMPANY NAME] LIMITED (No. [NUMBER])
Client's address:	[REGISTERED ADDRESS]
[Client's representative:]	Name: [NAME] Email: [EMAIL] Telephone: [Telephone]
Consultant:	[COMPANY NAME] LIMITED (No. [NUMBER])
Consultant's address:	[ADDRESS]
[Consultant's VAT number:]	[NUMBER]
[Consultant's representative:]	Name: [NAME] Email: [EMAIL] Telephone: [Telephone]
Services Start Date	[DATE]
Services:	[INSERT DESCRIPTION].
Key Deliverables:	[INSERT DETAILED DESCRIPTION OF SERVICES TO BE PROVIDED BY THE CONSULTANT AND ANY DELIVERABLES]
Fees:	[The Fees payable shall be [INSERT]]
VAT:	[The Fees are [inclusive or exclusive] of VAT]
[Special terms:]	[In the Conditions: [(a) Clause [NUMBER] deleted: The entire text of clause [NUMBER] is deleted and replaced with the words "Not used".] [(b) Clause [NUMBER] added: This clause is inserted into the Conditions: [NEW CLAUSE].] [(c) Clause [NUMBER] amended: This clause is amended to read as follows: [AMENDED CLAUSE IN FULL].]]
Schedules:	Schedule 1 - Definitions and Interpretation Schedule 2 – NTB Application Form

1. This Agreement is made up of the following:
 - 1.1 these Contract Details;
 - 1.2 the attached Conditions; and
 - 1.3 the Schedules to the Conditions.
2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the this.

This Agreement has been entered into by the authorised signatories of the parties on the date stated at the beginning of it.

For and on behalf of [INSERT CLIENT NAME]

For and on behalf of [INSERT CONSULTANT NAME]

Signed:

Signed:

Name:

Name:

Title:

Title:

Date:

Date:

NTB – TERMS AND CONDITIONS FOR FEASIBILITY DESIGN WORK

BACKGROUND

- (A) Neighbourhood Toolbox CIC (“**NTB**”) is a Community Interest Company (CIC) on a mission to ensure that communities can access the tools necessary to explore, design and realise homes, communities and neighbourhoods that work for all.
- (B) NTB aims to make design advice – from architects, interior designers, landscape architects, structural engineers, mechanical engineers, cost consultants, planning consultants and others (the “**Professionals**”) – available to residents and community groups with limited means (the “**NTB Mission**”).
- (C) In order to advance the NTB Mission, NTB offers the Professionals an opportunity to become a member of its community (“**NTB Member**”). In return, it asks that the NTB Member donate funds and a number of hours of volunteer time which it will allocated to the NTB Mission.
- (D) NTB, through the volunteer time received, facilitate the provision of project support services from the NTB Member to community groups.
- (E) The Consultant is an NTB member who will be supplying the Services to the community member, referred to as the Client, on the terms of this Agreement.

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

The definitions and rules of interpretation set out in Schedule 1 apply in these Conditions.

2. APPLICATION OF CONDITIONS

- 2.1 These Conditions apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Client shall engage the Consultant and the Consultant shall provide the Services on the terms of this Agreement. By entering into this Agreement and using the Services, the Client agrees to be bound by the terms in their entirety.

3. COMMENCEMENT AND TERM

The Agreement shall commence on the date when it has been signed by both parties and shall continue, unless terminated earlier in accordance with its terms, until completion of the Services when it shall terminate automatically without notice.

4. SUPPLY OF SERVICES

- 4.1 The Consultant shall supply the Services to the Client from the Services Start Date in accordance with the Agreement.
- 4.2 In supplying the Services, the Consultant shall:

- (a) perform the Services with all due care, skill and ability;
 - (b) use reasonable endeavours to perform the Services in accordance with the service description set out in the Contract Details;
 - (c) ensure that the Deliverables and all goods, materials, standards and techniques used in providing the Services are of satisfactory quality and fit for purpose;
 - (d) comply with all applicable laws, statutes, regulations and codes from time to time in force; and
 - (e) use reasonable endeavours to ensure that they are available at all times on reasonable notice to provide such assistance or information as the Client may require.
- 4.3 If the Consultant is unable to provide the Services due to illness or injury, they shall advise the Client of that fact as soon as reasonably practicable.
- 4.4 Unless they have been specifically authorised to do so by the Client in writing, the Consultant shall not:
 - (a) have any authority to incur any expenditure in the name of or for the account of the Client; or
 - (b) hold themselves out as having authority to bind the Client.
- 4.5 The provisions applicable to Principal Designers as set out in the Construction (Design and Management) Regulations 2015 and the Building Safety Act 2022 do not apply to Services provided by the Consultant under this Agreement.

5. CLIENT OBLIGATIONS

- 5.1 The Client shall:
 - (a) co-operate with the Consultant in all matters relating to the Services;
 - (b) provide, for the Consultant, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as reasonably required by the Consultant; and
 - (c) provide, in a timely manner, such information as the Consultant may reasonably require, and ensure that it is accurate and complete in all material respects.
- 5.2 If the Consultant's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client its agents, subcontractors, consultants or employees, the Consultant shall:
 - (a) not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay;
 - (b) be entitled to payment of the Fees despite any such prevention or delay; and
 - (c) be entitled to recover any additional costs, charges or losses the Consultant sustains or incurs that arise directly or indirectly from such prevention or delay.

6. CONFIDENTIALITY AND DATA PROTECTION

- 6.1 The Consultant shall not (except in the proper course of their duties), either during the Agreement or at any time after the termination of this Agreement, use or disclose to any third party (and shall use their best endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to:
- (a) any use or disclosure authorised by the Client or required by law; or
 - (b) any information which is already in, or comes into, the public domain otherwise than through the Consultant's unauthorised disclosure.
- 6.2 Both parties will comply with all applicable requirements of Data Protection Legislation.
- 6.3 The Consultant consents to all actions taken by the Client in connection with the processing of the Personal Data in line with this Agreement.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Consultant and its licensors shall retain ownership of all Consultant IPRs. The Client and its licensors shall retain ownership of all Intellectual Property Rights in the Client Materials.
- 7.2 The Consultant grants the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free, licence to copy the Consultant IPRs for the purpose of receiving and using the Services and the Deliverables in the Client's business during the term of this Agreement.
- 7.3 The Client grants the Consultant a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify the Client Materials for the term of this Agreement for the purpose of providing the Services to the Client in accordance with this Agreement.

8. FEES

- 8.1 In consideration for the Services, the Client shall pay the Consultant the Fees in accordance with this clause 8.
- 8.2 The Fees shall be 10% of the Consultant's time spent on the Services, up to a maximum of £350, whichever amount is lower.
- 8.3 The Consultant shall invoice the Client for the Fees within 14 days of completion of the Services.
- 8.4 The Client shall pay the invoice due within 30 days of receipt, to a bank account nominated in writing by the Consultant.
- 8.5 If the Client fails to make any payment due to the Consultant under this Agreement by the due date for payment, then, without limiting the Consultant's remedies under clause 10 the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

8.6 All amounts due under this Agreement from the Client to the Consultant shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8.7 The Client shall reimburse all reasonable expenses properly and necessarily incurred by the Consultant in the course of this Agreement subject to production of receipts or other appropriate evidence of payment.

9. INSURANCE AND LIABILITY

9.1 The Consultant shall, at all times during this Agreement maintain in force, with a reputable insurance company, professional indemnity insurance at an amount which covers all liabilities that may arise under or in connection with this Agreement.

9.2 Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982.

9.3 Subject to 9.2 and 9.4 each party's total liability to the other party arising out of, under, or in connection with this Agreement shall not exceed the Fees payable by the Client to the Consultant in the contract year in which the action giving rise to the claims occurred.

9.4 Subject to 9.2, neither party shall be liable to the other party for any loss of profits; loss of sale or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and/or indirect or consequential loss.

9.5 Both parties acknowledge that NTB is not involved in the provision of Services and therefore NTB shall not be liable for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Consultant or Client on the terms of this Agreement including any negligent or reckless act, omission or default in the provision of the Services.

10. TERMINATION

10.1 Without affecting any other right or remedy available to it, either party may terminate these Conditions for any reason, by giving no less than 14 days written notice to the other.

10.2 Either party may also terminate this Agreement with immediate effect by giving written notice to the Consultant if the Consultant commits a breach of any term of this Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of that being notified in writing to do so.

10.3 Upon termination, the Consultant shall immediately return all property and Confidential Information belonging to the Client in their possession or under their control and irretrievably delete any information relating to the business of the Client stored by any means.

10.4 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement existed at or before the date of termination or expiry.

- 10.5 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

11. OTHER ACTIVITIES

Nothing in this Agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during this Agreement provided that such activity does not cause a breach of any of the Consultant's obligations under this Agreement.

12. STATUS

- 12.1 The relationship of the Consultant to the Client will be that of independent consultant and nothing in this Agreement shall render them an employee, worker, agent or partner of the Client and the Consultant shall not hold themselves out as such.

- 12.2 This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for and shall indemnify the Client for and in respect of:

- (a) any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where the recovery is not prohibited by law; and
- (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant or any Substitute against the Client arising out of or in connection with the provision of the Services, except where such claim is as a result of any act or omission of the Client.

- 12.3 The Client may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Consultant.

13. GENERAL

13.1 ASSIGNMENT AND VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.2 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all other communications between the parties whether verbal or written. Each party acknowledges that in entering into this Agreement does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

13.3 THIRD-PARTY RIGHTS

Any person or entity who is not a party to this Agreement has no right to enforce any of the terms of this Agreement.

13.4 DISPUTE RESOLUTION PROCEDURE

- (a) If a dispute arises out of or in connection with this Agreement or its performance, validity or enforceability (the “**Dispute**”) then either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (the “**Dispute Notice**”), together with relevant supporting documents. On service of the Dispute Notice, the nominated representative of the Client and nominated representative of the Consultant shall attempt in good faith to resolve the Dispute.
- (b) If the nominated representative of the Client and nominated representative of the Consultant are for any reason unable to resolve the Dispute within 30 working days of it being referred to them, the parties agree to enter into mediation in good faith to settle the Dispute and will do so in accordance with the CEDR Model Mediation Procedure
- (c) No party may commence any court or arbitration proceedings in relation to the whole or part of the Dispute until it has attempted to settle the Dispute by mediation and either the mediation has terminated, or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.
- (d) If for any reason the Dispute is not resolved within 30 working days of commencement of the mediation, the Dispute shall be referred to and finally resolved by the courts of England and Wales in accordance with clause 13.5.

13.5 GOVERNING LAW AND JURISDICTION

This Agreement is governed by, and construed in accordance with the law of England and Wales and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

Schedule 1 Definitions and Interpretation

1. Definitions

- 1.1. In this Agreement except where a different interpretation is necessary in the context, the words and expressions set out below shall have the following meanings:

Agreement means the agreement between the Consultant and the Client for the supply of the Services, comprising the Contract Details, these Conditions and the Schedules to these Conditions.

Capacity means as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity.

Client Materials means all materials, equipment and tools, drawings, specifications and data supplied by the Client to the Consultant.

Confidential Information means information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, clients, suppliers, products, affairs and finances of the Client for the time being confidential to the Client and trade secrets including, without limitation, technical data and know-how relating to the business of the Client or any of its suppliers, customers, clients, agents, distributors, shareholders, management or business contacts including (but not limited to) information that the Consultant creates, develops, receives or obtains in connection with their Engagement, whether or not such information (if in anything other than oral form) is marked confidential.

Consultant IPRs means all Intellectual Property Rights subsisting in the Deliverables excluding any Client Materials incorporated in them.

Data Protection Legislation means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Deliverables means all documents, products and materials developed by the Consultant or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts) and the Key Deliverables set out in the Contract Details.

Fees means the Consultant fees payable by the Client for the supply of the Services as set out in the Contract Details.

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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.

NTB means Neighbourhood Toolbox CIC, a community interest company incorporated and registered in England and Wales with company number 15480137 whose registered office is at 81 Locks Hill, Frome, England, BA11 1ND.

Personal Data has the meaning given to it in the Data Protection Legislation.

Services means the services provided by the Consultant in a consultancy capacity for the Client in accordance with the specification as set out in the Contract Details.

Services Start Date means the date on which the Services shall start, as set out in the Contract Details.

2. Interpretation:

- 2.1. The Client and Consultant are referred to each as a “party” and together the “parties.”
- 2.2. Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 2.3. A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that legislation or legislative provisions.
- 2.4. Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2.5. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

Schedule 2 – NTB Application Form