

Appendix C

Terms & Conditions

RIBA 

Chartered Practice


ARCHITECTURE

Standard Terms & Conditions

These Terms and Conditions (“Terms”) set out the terms and conditions upon which XUL Architecture Limited agrees to supply professional services to our clients. Unless XUL Architecture agrees to the contrary in writing, we only offer to supply services on this basis. XUL Architecture will agree reasonable modification to these terms but such agreement must be in writing and cannot be inferred from a course of behaviour. Reference to XUL Architecture includes its staff.

1. Scope of contract

- a) XUL Architecture shall supply you, “the Client” with the architectural and design services (usually involving interior design services) and general design services with the project co-ordination and procurement services (“the Services”) usually for the specific project (“the Project”) more particularly described in the Letter of Appointment provided to you together with these Terms and any brief that is agreed between the parties and as set out elsewhere in these terms and conditions.
- b) This Agreement and any related dispute or claim (contractual or non-contractual) shall be governed by, and construed in accordance with, English law and subject to the exclusive jurisdiction of the English courts.
- c) XUL Architecture warrants in respect of the Services they have and will continue to exercise all reasonable skill, care and diligence to be expected of a properly qualified professional architect holding itself out as competent and experienced to perform such Services having due regard to the size, scope, nature, complexity and value of the Project. This will be delivered for you within a reasonable time frame and using reasonable skills and care.

2. Client’s duty to provide information and support

- a) You shall be responsible for providing XUL Architecture with all the necessary instructions and information concerning “the Services” and “the Project” reasonably requested by XUL Architecture. XUL Architecture shall not be responsible for any shortcoming in such information.
- b) You shall provide XUL Architecture with such support (including access to your premises and assistance) as is reasonable to help us to carry out the Services efficiently and speedily.
- c) You will be liable for any delay or expenses incurred as result of changing your mind or of your failing to give XUL Architecture proper instructions in a reasonable time, and/or to an agreed programme except where it is beyond the Client’s reasonable control.
- d) You acknowledge that XUL Architecture does not warrant the work or products of others, that any planning permission or statutory approvals will be granted, the solvency of any other body associated with the Project, whether or not it was appointed on the advice or recommendation of XUL Architecture.
- e) You acknowledge that you are responsible for appointing and employing each consultant involved in the Project. You agree to hold each consultant, and not XUL Architecture, accountable for the competence, performance, and delivery of their services, including their oversight of any work they have designed or any deadlines they have not met. This is irrespective if the consultant has been introduced or recommended by XUL Architecture. You are also responsible for ongoing monitoring of their invoicing, reviewing and accepting the terms and conditions of each consultant’s appointment and ensure they meet your expectations and requirements.

Terms & Conditions

3. Delivery

- a) The delivery times for the Services stated by XUL Architecture are bona fide and reasonable estimates and we shall not be responsible for any delay to the extent that is not our direct or indirect fault.
- b) Works (being part of the Project) shall be deemed completed when XUL Architecture reasonably certifies them to be completed.

4. Procurement

- a) Normally in interior design schemes and exceptionally in architectural schemes XUL Architecture procures materials, equipment, furniture, fittings, fabrics, accessories and/or finishes (the “Materials”) as part of the Services. This procurement is separate from the design fee and items are charged to the Client inclusive of the administration fee.
- b) It is understood the Materials may be custom made with artistic finishes, which may result in variations between individual items produced to the same design and therefore an exact match to the sample cannot be guaranteed.
- c) Any cost provided or procured materials will be in the form of an estimate and may be subject to change.
- d) XUL Architecture will not be responsible for complaints arising for any carpet shading, mere wear and tear or similar difficulties experienced with any other Materials due to reasons beyond our reasonable control.

5. Materials and Subcontractors

- a) If the Project includes procurement then XUL Architecture will (based on the Client information) advise on and procure Materials that XUL Architecture reasonably considers are appropriate for the Project.
- b) XUL Architecture hereby assigns to you the benefit of any and all contractual and implied warranties related to procured Materials and we shall have no further liability whatsoever in relation to any defects in such Materials.
- c) Subject to the above, you shall inspect the Materials procured as part of the Project and provided that you notify us within seven days from delivery/completion then XUL Architecture will try to persuade the supplier to remedy any defect provided that you have used the Materials in accordance with manufacturer’s or supplier’s recommendations.
- d) The Services do not include the provision of contractors and subcontractors, except to the extent agreed to the contrary (in which you shall have a right of prior written approval over those).

6. Fees / Title

- a) For the supply of the Services the Client shall pay to XUL Architecture the total of the fees as stipulated in the Letter of Appointment and in any other documents, emails and correspondence relating to the Project, provided that those have been agreed by the Client in writing in advance.
- b) XUL Architecture fees will attract VAT and any other local taxes (where applicable) plus the goods and material costs and third party charges that are reasonably needed for the Project which will be charged as extras (for the expenses involved) and we will be entitled to charge for our reasonable out of pocket expenses wholly necessarily and identifiably incurred in the provision of the Services provided that these have been agreed by the Client in writing in advance. These can include such items such as printing; postage; internal 3d visuals; any statutory fees; purchase of OS maps, etc.
- c) Any estimate of the whole or any part of the likely fee for the Project is based upon information and will be given in good faith and shall be treated as an estimate only and shall be valid for 14 days (or for such longer period as we may agree in writing)
- d) We raise invoices on a monthly basis in relation to progress done at the end of the month or we will raise an invoice at the completion of a Stage if it is not the end of the month, for example if in the middle of the month we submit a planning application this is when Milestone 2 is considered completed and we will then issue an invoice for the balance owed for Milestone 2 as this is considered a completed state. The due day for payment should be the date on which the Client receives the invoice and the final day for payment of XUL Architecture' fees shall be made in pounds sterling within 7 days of the date of the receipt of the invoice.
- e) We shall be entitled to charge interest on overdue sums 30 days after the date of receipt of invoice at the rate of 3% per annum.
- f) Once paid, the deposit/mobilisation fee is non-refundable.
- g) During any Stage of the project, if after three months we have had no contact with the Client we would advise that the original quotation/Letter of Appointment together with the deposit/mobilisation fee or indeed any monies paid on account will have been spent. The Letter of Appointment will no longer be valid and will need to be reviewed/requoted again.
- h) Our fees for planning application include up to one planning application submission and exclude any provisions for discharging any pre commencement conditions If there were conditions on the consents and additional information or details are required, these are excluded from our fees for this stage as they form part of Milestone 3. If you wish to separate the different aspects of the planning application, or the council request changes to the current design, additional fees might apply.
- i) When working on a % for a specific Stage our fees will be charged as a % of the net total cost of the works (the sum of all expenses incurred by the contractor, sub contractors, labour, construction material, finishes including kitchen, sanitary ware, lighting, flooring, joinery etc) irrespective if these costs form part of the contract cost. When the budget for the project is agreed, that budget is used temporarily for the sake of calculating XUL Architecture's fees monthly as the project progresses. As soon as more information is available and an updated cost of works is known the XUL Architecture's fees are adjusted to the new sum and the difference is invoiced/credited accordingly. If adjusted up it will be invoiced at the end of the month and if to be credited it will be credited from the following invoices until the sum is covered.

Terms & Conditions

Unless specified otherwise XUL Architecture's fees will be adjusted when:

- a) The budget is agreed
- b) The cost plan is available, and every time is updated
- c) Tender stage when the contractor is selected
- d) During construction when the cost difference goes above 5%
- e) Completion of works when the final account is available

Architectural % fees are based on the overall construction cost, which broadly reflects the level of design and coordination work required. In general terms, the higher the construction cost, the more complex the project tends to be, and therefore, the more work is involved from an architectural perspective. The percentage fee isn't calculated based on the time spent on each individual item, as different elements require varying levels of input. Some lower value items can be quite complex and time consuming, while higher cost items might need relatively little coordination. The percentage model is designed to balance this out across the entire project. As such, it provides a fair and practical way of reflecting the overall effort involved. Additionally, the higher the cost of the works, the lower the %, this is designed to reflect efficiencies achieved through scale, even though the complexity may increase, ultimately benefiting the client. At any time when the cost of the works is adjusted, this sum is the most accurate and up to date figure available, giving the best representation of the current cost and complexity of the works. As a result, our fee invoice is issued on account, based on this more accurate construction cost. In some specific cases and when required by the client, once we have a clearer understanding of what each design item or finishes involves in terms of cost, complexity and coordination, we will be able to review them and cap our fees of those items where the cost increase is clearly disproportionate to the work required. Even though many works do not fully fall into XUL Architecture's responsibility, XUL still has a degree of coordination and oversight responsibility which make those items buildable, delivered or feasible to be installed. For this reason, our % fee is based on the total cost of the works as available reflecting the current efforts required to deliver the project.

When XUL Architecture develop a piece of work and XUL Architecture's fees are

calculated as a % of the cost of works and the Client decides for any reason to stop that element of the work or remove it from the project the fees will be calculated as a % of the latest cost available for that particular element of work (for example, joinery – if at cost plan stage the budget for joinery is £100,000 and XUL design all joinery based on that budget, if at any point, the client decides not to proceed with the joinery and the work is done or partially done, the fees for the work done will be calculated based on the % agreed in the Letter of Appointment. In the case where the client decide to remove an element of work and that element of work has been priced by the selected contractor, XUL Architecture's fees will be calculated as a % of that cost of that item as priced by the selected contractor.

- j) The weekly rate for operations on site will remain the same as long as the project construction commences on site within the first year of signing this Letter of Appointment, otherwise it could be subject to being increased to our current rates.
- k) Our hourly rates will be charged at the rates within this Letter of Appointment. However, if additional work is required or the work carried out is not within the first year of signing this Letter of Appointment then they will be based at our current rates.
- l) No monies will be refunded upon termination of our contact by the Client within any completed or uncompleted Stage of the project.
- m) The client may not withhold payment of any part of an account for sum or sums due to XUL Architecture in accordance with this Agreement by reason of actual or alleged claims against XUL Architecture unless the amount to be withheld has been agreed by XUL Architecture as due to the Client or has been awarded in adjudication, arbitration or litigation in favour of the Client in relation to the Project. This shall not however affect the Client's rights of set off at common law and / or in equity.

Terms & Conditions

- n) XUL Architecture will be entitled to charge at its current rate for additional work necessitated by reason of corrections or modifications or changes after work have been approved by the Client (to include any Client led or unexpected changes to critical path and/or alterations in style or design) or by the Client's failure to provide XUL Architecture with the correct and timely information as contained in paragraph 2, unless they are the result of a mistake or mistakes by XUL Architecture.
- o) There are up to 2 revisions per drawing included in our proposal. When revisions are not used, are not reimbursed.
- p) When as part of the Services XUL Architecture acts as lead consultant and as a contract administrator, XUL Architecture will assist the Client as reasonably required in resolving any dispute or claim which may arise between the Client and/or any member of the design team and/or the relevant contractor, provided that this obligation will not extend above of 8 hours. This assistance does not include to carrying out a detailed examination of any financial claim or participating in or giving substantive advice to the Client in relation to any adjudication, arbitration or litigation proceedings. Should XUL Architecture be requested to participate in any of the aforementioned, or if it is evident that an underperforming consultant, supplier, subcontractor or contractor requires extra time to manage them, or a change of a current consultant to a new one which will attract additional time to coordinate and get them up to speed, then the time spent will be charged on an hourly basis in accordance with its current rates

7. CDM

- a) XUL Architecture shall comply with any and all obligations imposed on us by the CDM Regulations in our capacity as designers in relation to the Project.
- b) The Client will comply with any and all obligations imposed on the Client by the CDM Regulations in its capacity as the "Client" in relation to the Project.

8. Intellectual property

- a) The copyright and/or moral rights and all other intellectual property rights recognised anywhere in the world in XUL Architecture literary or artistic works including all design work (including specifications, designs, drawings, illustrations, text, scores, photographs, prototypes, objects, models and mock-ups, whether stored or displayed physically or electronically and in whatever medium) ("the Intellectual Property") belongs exclusively to XUL Architecture is hereby asserted.
- b) Subject only to payment of all fees and/or an additional fee XUL Architecture can grant an exclusive licence to copy and use XUL Architecture' Intellectual Property produced for this project. If agreed this licence includes the delivery of all DWG drawings available, which can be requested at any point of the Project. XUL Architecture may be prepared to grant an exclusive licence on separate terms.
- c) You and XUL Architecture will each use reasonable endeavours to protect and preserve each other's confidential business and private information and know-how and will not disclose it to any third party nor use it or our own advantage and you will each comply with the other party's reasonable requirements in that regard. Further, all ideas and design concepts arising during the Project and created by XUL Architecture (whether or not implemented) shall form part of XUL Architecture's Confidential Information. For the avoidance of doubt, however (i) the IPR licence above shall be deemed to include a licence of the right to use Confidential Information to the extent comprised by the IPR; and (ii) this Agreement shall not prevent the lawful processing by or for each party of the personal data of the other party's personnel in accordance with any applicable data protection laws in connection with the performance of this Agreement (and each party shall use reasonable endeavours to assist the other with establishing lawful bases for such processing and shall comply with its obligations under data protection laws in relation to such processing.

Terms & Conditions

- d) Save insofar as XUL Architecture may have been negligent they will not be liable for any infringement of any third parties rights and XUL Architecture can arrange for it solicitors to carry out trademark searches for you if you so require.

9. Non solicitation

Throughout the period of the Project and for the period of twelve months following completion of the later of:

- a) the Project: or/
- b) any other commercial contact between you and XUL Architecture (the “Relevant Period”)
- c) you hereby agree not yourself or through any third party or agent (except via XUL Architecture itself), to contact any of XUL Architecture employees with a view to any commercial endeavour, nor to solicit the services of any its employees nor to access any of our Confidential Information except with our written permission.

10. Termination and suspension

- a) Each party shall have the right to terminate this Agreement at any time upon giving the other party 5 working days written notice in the case of termination following a breach of contract by the other party,
- b) The Project will be in stages (which normally be Strategic Definition, Preparation and Brief, Concept Design, Spatial Coordination, Detail Design, Production Information, Tender Action, Contract Administration, Construction and Handover and Close Out). Once the project has been approved by the client then each Milestone (1-4) and/or Stage will commence as soon as we receive either verbal instruction or as soon as XUL Architecture receives written instruction from you to start the stage.
- c) The fees arranged for that particular Milestone or Stage will be as stated with the Letter of Appointment or email agreement.
- d) The parties will each have the right to terminate the contract at the end of any stage and XUL Architecture will have the right to terminate the contract during a stage if

we reasonably consider that our professional relationship or standing is threatened.

- e) Upon termination you will pay to XUL Architecture all outstanding fees up until termination and we will then handover the working papers to you in pdf format. This clause shall not apply if XUL Architecture shall pass a resolution for winding-up, otherwise than for the purposes of solvent amalgamation or reconstruction where the resulting entity is at least as credit-worthy as XUL Architecture and assumes all of the obligations of XUL Architecture under the contract) or a court order to that effect; or ceases to carry on its business; or becomes or is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or if a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar office is appointed over any of the assets of XUL Architecture, or any similar event or events occur.
- f) You will have the right to suspend the Project upon giving XUL Architecture 5 working days written notice but will be responsible for paying all fees up to the day of suspension and shall keep XUL Architecture informed of the progress of the Project end the up to date estimated duration of the suspension. XUL Architecture may at any time decline to undertake any further work on the Project and XUL Architecture shall have complete discretion as to whether to maintain being part of any design team for the Project.

11. Limitation of liability

- a) We confirm that we maintain professional indemnity insurance cover of £2,000,000 for the entirety of the project and for 6 years from practical completion (subject to its availability at commercially reasonable rate). and this will be the maximum limit of our liability in respect of your project, except to the extent that this is incompatible with statute.
- b) Neither party shall be responsible for any failure caused by events beyond its reasonable control including any force majeure.
- c) XUL Architecture shall not be responsible for any failure of any materials or items not recommended by XUL Architecture but stipulated by the Client to be used in relation to the Project or the consequences thereof
- d) XUL Architecture' sole liability in relation to any defect that is attributable to XUL Architecture with the product provided (to the Client) as part of the Service shall (unless it shall in the circumstances be inappropriate) be limited to rectifying the defect.
- e) Further and notwithstanding anything to the contrary contained in [this Agreement] and without prejudice to any provision in [this Agreement] whereby liability is excluded or limited to a lesser amount, the liability of [the Consultant], if any, for any loss or damage ("the loss or damage") in respect of any claim or claims shall not exceed such sum as it would be just and equitable for [the Consultant] to pay having regard to the extent of [the Consultant's] responsibility for the loss or damage and on the assumptions that:
 - i. all other consultants and advisers, contractors and sub-contractors involved in [the Project] shall have provided contractual undertakings to [the Client] on terms no less onerous than those set out in [this Agreement] in respect of the carrying out of their obligations in connection with [the Project]; and
 - ii. there are no exclusions of or limitations of liability nor joint insurance or coinsurance provisions between [the Client] and any other party to [the Project] and that any such other party who is responsible to any extent for

the loss or damage is contractually liable to [the Client] for the loss or damage; and

- iii. all the parties referred to in (i) above, have paid to [the Client] such proportion of the loss or damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss or damage.
- f) Neither Party shall under any circumstances whatsoever be liable to the other for any direct or indirect loss of profit, loss of business or anticipated saving or special, indirect or consequential damage suffered by the other Party that arises under or in connection with this Agreement.
- g) Notwithstanding anything to the contrary in this Agreement, the liability of XUL Architecture under or in connection with this Agreement (including, without limitation, legal costs and interest) whether in contract or in tort, in negligence, for breach of statutory duty or otherwise (other than in respect of personal injury or death) shall not exceed in aggregate the sum of £2 million.

12. Publicity and examples

Subject and without prejudice to clause 8© above and to the trade mark and other Intellectual property rights of the Relevant Persons, XUL Architecture shall, acting in good faith, have reasonable right to publicise, to a reasonable extent, it's involvement in the Project once it is in the public domain.

Terms & Conditions

13. Notices

All notices to be given under this Agreement shall be in writing and shall either be delivered personally or sent by first class recorded delivery pre-paid post and shall be deemed duly served:

- a) in the case of a notice delivered personally, at the time of delivery, or
- b) in the case of a notice sent by first class pre-paid post, two clear working days after the day of despatch.

For XUL Architecture each notice shall be sent to the correspondence address office and/or its principal place of business or such other address XUL Architecture shall notify to the Client of in writing.

For the Client each notice shall be sent to the Project address or such other address the Client shall notify to XUL Architecture in writing.

14. Legal

- a) This Agreement shall be enforceable by each of the Relevant Persons, who are intended to benefit from their respective rights under this Agreement. Otherwise, a person who is not a party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 or otherwise to enforce any provision of this Agreement
- b) This Agreement is personal to the parties hereto and cannot be assigned in whole or in part, without the prior written consent of the other party.
- c) Any of the provisions of this Agreement that are unenforceable shall (to the extent of their unenforceability) be severable.
- d) Any dispute arising out of the contract may be referred by either party to adjudication under the RIBA Adjudication Scheme for Consumer Contracts.

- e) No actions or proceedings for any breach of contract (or otherwise arising out of the Services) shall be commenced against XUL Architecture after the expiry of 6 years following practical completion of the Project as certified pursuant to this Agreement.
- f) XUL Architecture confirms that Sebastian Sandler qualified as an architect in Argentina and that he is not Architects Registration Board ("ARB") registered. XUL Architecture warrants that it has within its team ARB and RIBA registered architects.

15. Additional terms

If we have estimated a lump sum fee for an agreed project's scope, this may increase if the project changes in scope or size, or if alterations are requested to previously agreed or approved drawings, or if negotiations/discussions become unusually protracted.

Reliable estimates of building costs can only be obtained from Stage 4A Detailed Design drawings and specifications. Prior to this stage, if requested, we can liaise on your behalf with a quantity surveyor who is qualified to provide cost advice for a separate fee (see below).

We would charge an additional fee, which would be at our standard hourly rate unless agreed/stated otherwise, for:

- a) in a case where planning permission is relevant if the planning authority rejects the first application for planning permission and we are asked to make a fresh application, or if we were involved in a 'Planning Appeal' in which case an additional fixed charge would be made to cover the extra time involved once agreed in writing by the Client.
- b) if additional work is requested.
- c) if the contract on site extends beyond the end of the contract period for reasons outside of our reasonable control; and/or
- d) meetings over and above the two per stage and no more than two hours per meeting.

Terms & Conditions

Where work is carried out to existing buildings we cannot guarantee the condition of the existing structure or that it can be made damp proof. We also cannot be held responsible for identifying or making allowances for underground or covered over elements if they are not known e.g. the location of existing mains services, or underground springs. Unless agreed otherwise our fee includes standard finishes only.

Use of Drawings and Specifications

Drawings and specifications issued by us must **not** be used for construction unless expressly marked and issued as a "**Construction Issue.**"

Drawings produced during RIBA Stages 0 to 3 are provided for the purposes of concept design or planning application only. They are **not suitable for tendering or construction** and should not be relied upon as such. Likewise, drawings and documents issued for tender are intended **for pricing purposes only** and must not be used for construction.

In order for drawings to be issued for construction, they would need to be issued with a label clearly indicating "issue for construction", this is done when we are appointed to be the contract administrator and our fees for doing this are included only when we take the role of contract administrator.

We cannot accept any responsibility for work on site unless we are retained on a 'Full Service' basis as contract administrators under a JCT standard form of building contract in which the contract documents include a full Stage 5 construction issue.

Our fee does not include for work listed below in 'additional services' for which we would happy to quote separately.

We **accept no liability** for any construction work, site activity, or procurement carried out based on drawings or specifications **not explicitly issued for construction.**

It is the responsibility of the client, contractor, or any third party involved in the project to ensure that the most current and appropriate version of all drawings and specifications is being used. We strongly advise verifying the construction status of all documents before initiating any works.

Basement Works – XUL shall not be and assume no liability for any waterproofing / damp proofing elements of the project

Collateral Warranty – A Collateral Warranty is not included within XUL's contract unless specifically requested. If one is required a fee would need to be agreed in advance before any contract is signed.

16. Additional services

Other services can be delivered or arranged through XUL Architecture. Additional fees and terms would need to be agreed for the following additional work (i.e beyond that already contemplated under the Letter of Appointment): any design work not forming part of the main contract [nor supplied by the main contractor], Interior Design, joinery and design of furniture or fittings; survey of existing land and buildings; preparing artists impressions perspectives, models or 'as built' drawings; negotiating or applying for grants, preparing and submitting a planning appeal; conducting exceptional negotiations with a local authority; carrying out negotiations relating to extension of time claims, rights of light, access, support, boundaries, rights of way and party wall agreements.

Terms & Conditions

Interior Design

17. Scope of the Services

XUL Architecture (the "Interior Designer") shall provide interior design services to the Client in relation to the agreed project. These services may include, but are not limited to, the following project stages: briefing, concept design, design intent development, technical design package, and installation coordination. The precise scope of services to be delivered will be outlined in the project proposal or accompanying fee letter. Any services requested by the Client that fall outside the agreed scope will require a separate written agreement.

In addition, the Interior Designer shall act as an agent on behalf of the Client to procure all interior goods, furnishings, fittings, lighting, and other specified loose and fixed items (collectively referred to as "FF&E") required for the project. These FF&E procurement services include:

- a) Sourcing, ordering, and delivery coordination
- b) Supplier and contractor liaison
- c) FF&E site coordination, subject to the service tier selected by the Client

The Client acknowledges and agrees that the procurement and coordination of FF&E (Furniture, Fixtures & Equipment) constitutes an additional service not included in the base design fee. Should the Client wish to proceed with this service, it will incur a separate fee amounting to 15% of the net cost of the procured items.

18. Client Responsibilities

At the start of the project, the Client agrees to work with XUL Architecture to prepare a list of required FF&E (furniture, fixtures, and equipment) items, along with an indicative

item-only budget. These items will be specified and procured by XUL Architecture and will form a key part of the design at each stage.

The Client agrees to:

- a) Provide timely site access and relevant project documentation
- b) Respond promptly with decisions, feedback, and approvals when requested
- c) Review and sign off designs and budgets at the end of each stage to allow the project to progress without delays. Delays in providing information or approvals may affect timelines, budgets, and may incur additional fees.

The Client is responsible for appointing all consultants, subcontractors, and suppliers, where recommended by XUL Architecture. The Client must review and approve their terms and is solely responsible for their performance.

The Client must review and approve all FF&E specifications before procurement. Once delivered to site, FF&E items are at the Client's risk, and the Client must ensure suitable insurance and security are in place.

19. Procurement Process

- a) Within Milestone 2, the Designer and Client will agree a list of required items and a provisional FF&E budget.
- b) All FF&E will be purchased using XUL Architecture's trade accounts, with trade discounts passed on to the Client, unless agreed otherwise
- c) All purchases are made in the Client's name; the Client will receive invoices directly and is responsible for timely payment unless otherwise agreed. XUL Architecture will act as an Agent on behalf of the Client
- d) Where XUL Architecture is to procure only delivery and/or installation but not supply, the same provisions apply from the point of Client approval of tenders.

20. Designer's Duties in Procurement

XUL Architecture shall:

- a) Source FF&E from trusted network of suppliers offering fair terms (no unreasonable exclusions of liability)
- b) Ensure items specified and procured are of reasonable quality, fit for purpose, and delivered on time
- c) Remedy or arrange replacement of faulty items in accordance with supplier terms
- d) Notify the Client of changes in availability or pricing and obtain instruction before proceeding with substitutions

21. Cancellations and Changes

- a) The Client shall bear all costs relating to the cancellation of any orders or services that have already been confirmed through acceptance of official quotations and/or invoices. This includes any procurement work already undertaken, such as the FF&E administration fee (calculated as a percentage of the total FF&E spend), and the time required to process cancellations with suppliers. Time spent will be charged at the agreed hourly rate and invoiced accordingly.
- b) Custom-made, antique, and collector's items are non-refundable once ordered and must be paid for in full at the time of order.
- c) Cancellation or return of standard stock items may be possible but may incur restocking or handling fees. The Client is also responsible for all delivery and return costs. In addition, any time spent by XUL in coordinating returns, exchanges, or associated communications will be charged on an hourly basis and invoiced separately.
- d) Any changes to the agreed design scope and any resulting procurement revisions after Milestone 2 will incur additional fees, charged either on an hourly basis or as a separately agreed lump sum.

22. Fees and Payment

- a) XUL Architecture's procurement and coordination fee is 15% of the FF&E spend, calculated after trade discounts and before VAT, with VAT charged additionally. A 50% deposit of this fee is payable at the commencement of the procurement service.
- b) Fees will be invoiced monthly in line with the progress completed and are payable within 7 days.
- c) Payment delays may result in service suspension.
- d) XUL Architecture may either certify amounts for direct payment by the Client to suppliers or pay them and invoice the Client accordingly.
- e) Design services are charged separately.
- f) XUL Architecture will produce an FF&E budget schedule detailing the items proposed for procurement. Once the list and associated costs are agreed with the Client, XUL Architecture will issue invoices for 50% of the procurement and coordination fee and 50% of the total cost of the approved FF&E items (excluding VAT). These must be paid prior to placing any orders. The remaining balance will be invoiced in stages as procurement progresses.

23. Storage and Delivery

- a) If the Client instructs that goods be stored off-site, the Client will bear all storage and related costs.
- b) The Client must inspect delivered items (to site or to storage location) and notify the Designer and Supplier of defects:
 - a) Upon receipt of delivery (if the Client is responsible for receiving goods)
 - b) Within the applicable liability period for hidden defects (excluding fair wear and tear or accident)

Terms & Conditions

- c) All items stored on site are the sole responsibility of the Client from the point of delivery. XUL Architecture is not liable for handling or storage conditions, or any damage, loss, or theft of such items once on site, regardless of whether site works are ongoing or complete. The Client must ensure appropriate storage conditions, insurance, and security are in place at all times.
- d) The client is responsible for removal, protection, storage, and reinstallation of any existing or personally owned items, including but not limited to furniture, artwork, and decorative objects. XUL Architecture does not assume responsibility for the management or safety of such items during the course of works, unless explicitly agreed in writing in advance.

24. Installation and Site Access

When the Designer or a contractor is engaged for installation:

- a) The Client shall provide:
 - a) Access to all relevant areas
 - b) Storage space for tools/materials
 - c) Use of water, electricity, heating, and sanitation
 - d) Working hours: Mon–Fri, 08:00–18:00
- b) The Designer shall:
 - a) Use skilled tradespeople
 - b) Meet agreed deadlines
 - c) Comply with legal obligations and notices
 - d) Warn the Client of any safety risks
 - e) Maintain reasonable security if the Client is absent
 - f) Be entitled to time/cost adjustments for delays outside their control
- c) The Client must not allow children or others to access hazardous areas during works

25. Price Adjustments

- a) FF&E prices are based on the approved tender or quote.
- b) Adjustments may be made if:
 - a) Specified items become unavailable and substitutes are approved by the Client

- b) Manufacturer prices change prior to delivery
- c) Decoration rates (painting, wallpapering, etc.) are subject to review after six (6) months from the contract start date. Any revision will be made in line with changes in the UK Consumer Prices Index (CPI) as published by the Office for National Statistics, to reflect inflationary cost increases.

26. Liability

XUL Architecture may recommend or liaise with third-party suppliers, contractors, or consultants on behalf of the Client, but accepts no liability for their performance, delivery, workmanship, delays, defects, or errors. While reasonable skill and care will be exercised in making recommendations and facilitating coordination, XUL Architecture shall not be held financially or contractually responsible for the actions, omissions, or failures of any third party. All third-party appointments remain solely the Client's responsibility, including review and approval of their terms and conditions.

27. Termination

If the project is paused or terminated:

- a) The Designer is entitled to compensation for services rendered to date, including any time spent sourcing items not yet ordered.
- b) Procurement fees will still apply to any sourced, confirmed but not purchased and/or fully ordered but not delivered FF&E items.

Terms & Conditions

28. Intellectual Property

All design materials, concepts, and documentation remain the intellectual property of XUL Architecture. They may not be reused or reproduced without written permission and payment of a license. That includes all bespoke furniture and free-standing bespoke items commissioned by the Client and designed by XUL Architecture.

29. Photography and Publicity

The Client grants permission for XUL Architecture to photograph the completed project for marketing purposes. Photography will occur at a mutually agreed time and in a respectful manner. Photography may also take place during multiple days, subject to the size and complexity of the property as well as the nature of photoshoot. Client identity and address will not be disclosed without written consent.

30. Statutory Rights

These terms do not affect the Client's statutory rights under applicable UK consumer protection legislation.

31. Services by others

The following services will need to be supplied by others, to the extent relevant (if at all) to the Project, without limitation this might include: measure surveys, planning consultants, heritage consultant, party wall surveyor, building control, structural engineer, mechanical and electrical engineer, cost advice, preparing schedules of rates or quantities, VAT or legal or tax advice, lighting designer, landscape designer, project management, etc. This advice would be supplied by independent specialist consultants and would be appointed and paid direct by the Client, although we are happy to liaise with these consultants on our Client's behalf if required.