

STANDARD TERMS AND CONDITIONS FOR DESIGN SERVICES

1. ENTIRE AGREEMENT

This Agreement is the offer of Cotton Design Associates, LLC (herein referred to as “the Designer”), to perform the consulting services described in the attached Proposal for Pre-Design and Basic Design Services. Acceptance by the Client is strictly limited to the attached Proposal and these Terms and Conditions for Design Services, which when acknowledged in writing, is authorization to proceed. The Client is defined as the person or business entity signing the Agreement authorizing the Designer to proceed. This Agreement supercedes all prior written proposals and/or negotiations not referenced herein between the parties and is expressly conditioned upon the Client’s agreement of the Terms and Conditions hereof. This Agreement may only be modified in writing executed by both parties.

2. SERVICES TO BE PERFORMED

The services to be performed are described in the preceding Proposal for Pre-Design and Design Services. Unless otherwise specified in the Proposal or the Terms and Conditions, the Designer shall furnish all technical and professional Architectural and Design services, which includes necessary labor, materials, supplies, equipment, transportation and supervision to perform all tasks listed in the Proposal.

3. COMPENSATION

Fee. The attached Proposal describes the tasks, phases and compensation terms.

Terms of Payment. Invoices shall be submitted upon completion of a phase or monthly based on percentage complete at that time. Payments are due upon the Client’s receipt of invoice. Amounts that are unpaid thirty (30) days after the invoice date shall bear interest at the rate of one and one-half percent (1-1/2%) per month. A minimum finance charge of \$10.00 shall be assessed on all overdue payments. There is an administrative/processing fee of \$13.00 included in each invoice.

Payments Withheld. No deductions shall be made from the Designer’s compensation on account of penalty, liquidated damages or other sums withheld from payments to the contractor(s), or on account of the costs of changes in the contractor’s services. Other than cost changes which the Designer is adjudged to be liable.

Suspension. If any payment is more than thirty (30) days past due, the Designer may, after giving seven (7) days written notice to the Client, suspend services under this Agreement until the Designer is paid in full all amounts due for services, expenses, and other charges. Additionally, in the event of suspension, the Client shall waive all rights, claims, etc. which it might otherwise have against the Designer as a direct or indirect result of such suspension.

4. ADDITIONAL SERVICES

All Additional Services shall be approved by the Client and the Designer in writing prior to proceeding. The following are Additional Services that are not specified above and are considered beyond the Basic Design Services.

Master Planning. The Designer may assist the Client in developing and preparing a long term Master Plan. All work associated with the Master Plan, including all preliminary design work, shall be considered an Additional Service.

Construction Management Services. The Designer may assist the client in selecting a team of contractors to construct the Project, scheduling the work of the contractors and managing the

construction process. Construction Management Services shall be considered Additional Services.

Redesign to meet Project Budget Costs. The Client is responsible to establish and maintain Project Budget Costs and obtain required cost estimates. If the Designer is not contracted to offer additional services, the Designer shall not be liable to redesign to meet the project budget costs. If redesign is required due to revised or miscalculated project budget costs furnished by a party other than the Designer, the time required shall be considered Additional Services.

ADDITIONAL SERVICES CONTINUED...

Public Hearings / Municipal Filings. In the event a Public Hearing is required for a municipal agency (Zoning Board of Appeals, Planning Board, Design Review Board, etc.), the Designer shall invoice the Client on an hourly basis for both the preparation and time spent at the meeting.

Interior Design Services. The Designer may assist the Client in the selection of furniture, fabric, area rugs, artwork, accessories, etc. Interior Design Services shall be considered Additional Services if working outside a formal interior design agreement.

Purchasing through the Office of the Designer. Architectural materials and soft furnishings such as plumbing fixtures, plumbing fittings, hardware, appliances, kitchen cabinets, decorative lighting, tile, stone slabs, furniture, fabric, carpets, paint, artwork, accessories, etc., may be purchased through the office of the Designer. The full trade discount, as applicable, shall be forwarded to the Client. A purchasing coordination and handling fee between thirty percent & fifty percent (30%-50%) shall be applied to the cost of all items purchased through the office of the Designer.

Engineering. Based upon the particular needs of the Client, engineering services may be required for heating, air conditioning, electrical, plumbing, structural calculations, site planning, grading, septic systems and/or fire suppression. Engineering services are not included in this Agreement unless stated otherwise in the Proposal for Pre-Design and Basic Design Services. If Engineering Services are incorporated into the Basic Design Services, and it has been determined that the Engineer (or consultant) has made an error or omission, the Client shall seek legal remedy from the Engineer (or consultant) directly, without participation by the Designer.

Coordination of Consultants' and/or Client's Work. Any client arranged work performed by consultants or by the client, hired by the client, including but not limited to structural engineers, mechanical engineers, kitchen designers, landscape designers, interior design consultants, audio/video consultants, lighting designers, etc., shall be considered Additional Services.

Fees for Additional Services. The Designer may provide Additional Services beyond those listed in the Proposal for Pre-Design and Basic Design Services by a negotiated sum or on an hourly basis. The Designer's hourly rates are as follows:

Principal / Designer / Designer	\$225 per hour
Project Manager / Construction Mgr.	\$125 per hour
Project Staff / Draftsperson	\$100 per hour
Clerical Staff	\$80 per hour

Hourly rates specified above are valid for twelve (12) months from the date listed on the Proposal for Pre-Design and Basic Design Services and shall be increased five percent (5%) on the first day of the thirteenth month to reflect market conditions, employee benefits and salary compensation. Each rate increase is valid for an additional twelve (12) months.

Reimbursable Expenses. Reimbursable expenses shall include, but not be limited to, consultants' fees, printing, reproductions, bulk copying, photographic services, postage, shipping, delivery, long distance travel expenses, lodging, meals and/or other project related out-of-pocket expenses. Items shall be reimbursed to the Designer at cost plus ten percent (10%).

5. CLIENT'S RESPONSIBILITIES

Budget Management for the Project. The Client is responsible for creating and managing the Project Budget, including reasonable contingencies that align with the project's requirements. The Project Budget must be set by the Client before the Designer initiates Basic Design Services. As the project progresses or the scope of work expands, the Client should be aware of any budgetary changes or increases due to requested design modifications, additional design elements, expanded square footage, and should anticipate adjustments to both the construction costs and the Designer's service fee accordingly.

Property Surveys. Unless otherwise specified, Property Surveys are not included in Basic Design Services. The Designer shall assume that the Property Surveys, if required, shall be readily available.

The Designer assumes all information on these documents is accurate and is not responsible for any information completed by others.

Project Representative. The Client shall appoint and authorize a Project Representative to answer field questions and make timely decisions (within five (5) business days). The Designer assumes that the Client shall be the Project Representative unless the Client notifies the Designer, in writing, that another Project Representative has been appointed. If the Client replaces or selects a new Project Representative, any time spent by the Designer to bring the new Project Representative current shall represent **Additional Services**.

Cost Estimates. The Designer and its consultants do not warranty, guarantee or certify the construction cost for the project or any part of the project.

If the Designer is not contracted by the client to provide cost estimating services, the Client shall employ a contractor or construction cost estimating consultant to provide cost estimating services. **Selection of Qualified Contractor(s).** If the Designer is not contracted to provide Construction Management Services, the Client shall select a qualified contractor(s) with a minimum of three (3) years of construction experience in work similar in nature to the Project Description located in the immediate vicinity. The contractor shall provide a minimum of three (3) references as mutually agreed upon by the Client and the Designer.

Consultants. The Client shall furnish the services of consultants when such services are requested by the Designer and are reasonably required by the Project.

6. SCHEDULE

The Designer shall commence work on this project within twenty (20) business days of authorization to proceed.

If through no fault of the Designer, Basic Design Services has not been completed within twelve (12) months of the date first specified on the Proposal for Basic Design Services, compensation for the Designer's services beyond that time shall be considered Additional Services.

7. OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by the Designer pursuant to this Agreement are instruments of the Designer's professional service, and the Designer shall retain an ownership and property

interest therein. The Designer grants the Client a license to use instruments of the Designer's professional service for the purpose of constructing, occupying and maintaining this specific Project. Reuse and/or modification of any such documents, without the Designer's written permission, shall be at the Client's sole risk, and the Client agrees to indemnify and hold the Designer harmless from all claims, damages and expenses, including attorney's fees, arising out of such reuse and/or modification by the Client or by others acting through the Client.

Notice of Copyright. All ideas, designs, arrangements and/or plans indicated or represented by the Designer's drawings will be created, evolved and developed for use on this specific Project. None such ideas, designs, arrangements and/or plans shall be used by or disclosed to any purpose whatsoever without the written permission of the Designer.

8. PUBLICITY

The Designer and its consultants shall have the right to photograph the Project and to use the photographs in the promotion of its professional service through publication, advertising, public relations, brochures, websites, or other marketing media.

9. INSURANCE, INDEMNITY AND LIMITATIONS

Insurance. The Designer shall maintain Workman's Compensation, and General Liability throughout the period of this Agreement. Certificates of insurance are available on request.

The expense of any additional insurance coverage or increased policy limits of liability beyond, including professional liability insurance, requested by the Client in excess of the standard coverage of the Designer and its consultants shall be borne by the Client.

The Client shall require the contractor to name the Designer as an Additional Insured on the contractor insurance policy.

Limitation of Liability. For any damage on account or error, omission or other professional negligence, the Designer's liability shall be limited to the Designer's fee received under this Agreement.

Waiver of Consequential Damage. The Designer and the Client waive consequential damage for claims, disputes and other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with the provisions defining termination.

Hazardous Substances. The Designer shall not be responsible for the identification, removal, testing and/or certification of removal relative to any hazardous substance including, but not be limited to, PCB, petroleum, mold infestation, hazardous waste, asbestos, lead, and any other similar substances. The Designer and the Client acknowledge that the Basic Design Services does not include any items related to a Hazardous Environmental Condition.

Unforeseen, Latent or Hidden Conditions. Unforeseen, latent or hidden conditions may not be readily ascertainable regardless of the extent of the investigation. Such conditions may impact the design and necessitate extensive revisions to the design. When Design services are required to address these conditions, those services shall be deemed Additional Services.

10. STANDARD OF PRACTICE

Services performed by the Designer under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of their respective professions practicing in the same locality under similar conditions.

No other representation, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or any report, opinion, document, or otherwise.

11. DISPUTE RESOLUTION

Mediation and Arbitration. It is mutually agreed that the terms of this Agreement shall be binding upon both parties and their successors, executors, administrators and assigns.

Any dispute or claim arising in connection with this Agreement shall be submitted to Mediation for resolution in accordance with the Construction Industry Mediation Rules for the American Arbitration Association currently in effect. If not resolved, then the dispute or claim shall be subject to Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The Mediation and Arbitration shall take place in Windham County, Vermont.

12. MISCELLANEOUS PROVISIONS

Designer's Representative. The Designer shall identify a representative authorized to act on behalf of the Designer with respect to the Project.

Approved Project Scope. The Project Scope shall be all elements of the Project to be designed or specified by the Designer that will have an associated construction cost. Upon completion of the Schematic Design Phase, the Owner shall approve the Project Scope and associated Construction Budget. If, after approval, the Project Scope changes at the Client's request, the Construction Budget will be updated and the stipulated sum flat fee will be adjusted accordingly.

Construction Area. Upon completion of the Schematic Design Phase, the Designer shall calculate a Construction Area for each Schematic Design solution. The Construction Area shall be calculated by determining the area of the Project Scope.

Certification of the Construction Documents. The final Construction Documents shall be reviewed and certified by the Client and Designer prior to contractor bidding and/or municipal review. Certification by the Client and Designer shall indicate that the Construction Documents meet with all party's full approval. All revisions made to the Construction Documents subsequent to the certification shall be considered Additional Services.

Termination. Either party may elect to terminate this Agreement with not less than seven (7) days notice should either party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

The Client shall hold the Designer harmless for delays, clarifications, or non-conformance with the Contract Documents if the Designer has been terminated prior to the Construction Administration portion or phase of the work.

Proposal Validity. This Proposal shall remain in effect for thirty (30) days from the Proposal Date. If not executed within this period of time, this Proposal may be deemed null and void by the Designer.

Method and Means of Construction. The Designer and it's consultants are not responsible for the method, means or sequencing of construction unless this is arranged contractually (in writing) executed by both parties.

Storage of Materials. The contractor is responsible for the storage and proper protection of materials. Materials shall be stored in an area that is adequately ventilated and free from excessive moisture and condensation that may be conducive to mold contamination.

13. DEFINITIONS

Construction Cost. Construction Cost shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Client of all elements of the Project designed, selected or specified by the Designer.

Construction Cost shall include the cost at current market rates of labor and materials furnished by the Client and equipment designed, specified, selected or specially provided for by the Designer, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Project.

Construction Cost does not include the compensation of the Designer and the Designer's consultants or any other costs that are the responsibility of the Client as provided in this Agreement.

Surveyed Space. Surveyed Space shall be all the space surveyed and documented during an Existing Conditions Survey (ECS) as measured from the interior surface of the exterior walls. Surveyed Space shall include all interior space including, but not limited to, basements, garages, mechanical rooms, closets, storage rooms, covered porches, and similar space.