

Definitions

1. In this Agreement

"Client" means the person detailed as such overleaf;

"Fee" means CVS' fees as calculated overleaf and in addition pay the amount of VAT (at the then current rate) on such fees;

"Force Majeure Event" means any Governmental direction, embargo or order, armed conflict, short time, breakdowns, strike, lock outs, delays by sub-contractors, commotion or civil disturbance, acts of God, riots, flood, fire, shortage of labour, or other circumstances beyond the reasonable control of CVS or the Client;

"Gateway" means any digital portal operated by HM Government or the Valuation Office Agency from time to time to facilitate proposals to alter the Rating List by or on behalf of payers of business rates, including any administrative steps required in relation to such proposals;

"Property" means the Property listed overleaf (or in any Additional Site Schedule) in respect of which the Services will be provided;

"Rates Payable" means the amount of business rates payable in relation to the Property (inclusive of any local surcharges or similar fees, levies or other charges) as calculated from the Rateable Value;

"Rating List" means the rating list maintained by the Valuation Office Agency which is used to calculate business rates payable;

"Rating Period" means the period from one revaluation of Rateable Value to another, presently being the period running from 1st April 2017 to 31st March 2022; and

"Rateable Value" means an amount equal to the rent at which it is estimated the Property might reasonably be expected to let on 1st April 2015 as applicable from year to year and where the tenant undertook to pay all usual tenants rates and taxes and to bear the cost of the repairs and insurance and other expenses (if any) necessary to maintain the Property in a state to command that rent.

References to a specific Rating Period, Rating List or Rateable Value are those as anticipated as at the date of this Agreement, if such dates are varied by HM Government or the Valuation Office Agency, such references will be deemed amended accordingly.

Scope of Services and Agreement

2. (a) CVS will provide the Client with the following services namely (1) as the Client's sole agent, instructed to act exclusively to prepare and submit a proposal to alter the Rating List, to be responsible for the proposal, to consider whether at any stage the merits of the proposal are such that there is no reasonable prospect of success proportional to the expenditure involved and if so considered to withdraw the proposal, but otherwise to pursue the said proposal by way of appeal to the Valuation Tribunal at CVS' sole discretion or settle and report upon the outcome; and/or (2) perform any associated services (including taking action in relation to previous or subsequent Rating Periods) that the parties agree should be provided; and/or (3) if appropriate, to identify savings in rates payable by evaluating the rates liabilities through an audit process or otherwise (together "the Services").

(b) For the purposes of these terms and conditions, the "Agreement" means the agreement constituted by this Document (both sides) and the accompanying Fee Structure Agreement (plus Additional Sites Schedule if applicable). These documents constitute the entire agreement between the parties in respect of the subject matter thereof and supersede all proposals oral or written and any other communications between them relating thereto, including any terms proposed by the Client. Each party agrees that it 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 or negligent misstatement based on any statement in this Agreement. In the event of conflict between these terms and the Fee Structure Agreement the terms of this document will prevail. No employee of CVS other than a director has authority to vary the terms of this Agreement.

(c) Where CVS receive instructions to or deem it appropriate to submit any further proposals to alter the said Rating List or Lists arising during the currency of the said Rating List including, without limitation, change of use or material change of circumstances or consequent upon acquisition of new premises to merge with existing premises, those instructions will incorporate the terms of this Agreement.

On-line Gateway

3. If HM Government or the Valuation Office Agency establishes, or has established, a Gateway:

(a) The Client shall ensure that it undertakes all relevant steps required to register itself on the Gateway and to appoint CVS as its agent on the Gateway and shall comply with all reasonable instructions of CVS in this regard;

(b) The Client shall, to the extent permitted by the terms of use of the Gateway, authorise CVS to use the Gateway on the Client's behalf in relation to the provision of the Services;

(c) CVS shall have no liability to the Client in relation to the acts or omissions of the Client in relation to the Gateway, including where the same prevents, hinders or affects the performance of the Services by CVS; and

(d) The Client shall inform CVS as soon as possible of all actions it undertakes or intends to undertake via the Gateway.

Client's Obligation of Continuing Disclosure to CVS

4. The Client will keep CVS updated, in writing, about any changes or alterations relating to the Property or the immediate area or change in circumstances which may be relevant to the rating assessment (such notice to be given as soon as reasonably practicable and in any event within 28 days of becoming aware of such change). Further, without limiting the foregoing in any way, the Client agrees to forward to CVS within 7 days of receipt all and any communications received from the Valuation Office Agency during the currency of the Agreement and any other documents which may be relevant to the issue of Rateable Value.

Inspections

5. Any inspections, surveys or evaluations of the Property have been or will be carried out in such manner and/or on such occasion as CVS, within their absolute discretion considers reasonable, and are for the specific purposes of the instructions set out overleaf only. CVS alone will determine the necessity for and nature of any inspection or survey in any given case.

6. If CVS need to inspect or re-inspect the Property, the Client will give CVS access on 24 hours' notice.

Reliance on Information

7. The Client will provide CVS with the information listed overleaf as soon as possible and in any event within 28 days of the date of the Agreement. CVS will, unless otherwise expressly agreed, rely upon information provided by or on behalf of the Client relating to tenure, tenancies and other relevant matters. CVS may assume, unless the Client confirms otherwise in writing, that the Client has provided it with a copy of every notice or notification it receives from the rating authority in respect of the Property in question and has advised it of every fact or matter which is within its knowledge or power and/or comes within its knowledge or power following the date of the Agreement which would affect the assessment of Rateable Value of the Property including any other activity being performed by any other agent in respect of the rates assessment. For the avoidance of doubt, any requests by CVS for information the Client will fulfil as soon as reasonably practicable but in any event within 28 days of the Client coming into possession of the additional information or CVS' request (whichever is sooner). Failure to provide any information will be considered as a substantial breach of the Agreement.

Limits to the Survey

8. CVS will not carry out any structural, environmental, geographical or building survey and any inspection of the Property is for the purpose of provision of the Services only.

Assumptions

9. CVS will make the following assumptions, which CVS will not verify:

(a) All information provided by or on behalf of the Client, including without limitation details of ownership and occupation, is complete and correct and all information relevant to the instruction which the Client has, or reasonably should have, has been disclosed to CVS.

(b) The Property has been constructed and is occupied in accordance with valid town planning consents and building regulations approvals, and complies with all relevant statutory and bylaw requirements and has no outstanding statutory or other notices in connection with it or its current use.

(c) The Property and its value are unaffected by any matters which could be revealed by a full local search; CVS will not carry out any such searches.

Additional Matters Appertaining to Valuation Reports

10. Unless specified otherwise the rating valuation will be in accordance with appropriate RICS valuation guidelines to include the RICS Code of Measuring Practice and the RICS Code of Practice for Rating Consultancy. CVS may also make enquiries of local planning and rating authorities and take into account the information received in preparation of its valuation.

Reliance on Surveys

11. (i) CVS will prepare the valuation report with reasonable care and skill but accepts no responsibility whatsoever to any other person other than the Client who relies on the report. The Client shall not publish or disclose any part of the valuation report without CVS' prior written approval.

(ii) CVS excludes any liability or duty towards any subsequent occupier of the Property with whom CVS has not contracted, as their use and/or circumstances may be completely different from that of the Client.

Authorisation

12. The Client authorises CVS to agree terms of settlement with the Valuation Officer or any Billing Authority. The Client also authorises CVS to take any action deemed necessary by CVS relating to any Valuation Officer or any Billing Authority and to receive relevant information from any Valuation Officer or Billing Authority in order to validate or administer the payment of any rebate due to the Client (including receiving payment of any rebate). If CVS receives payment of the rebate, the Client agrees that CVS will be entitled to set off and/or deduct any Fee due to CVS pursuant to this Agreement (or any other agreement between the parties) from the rebate payable to the Client.

Fees

13. Payment of the Fee is due in all cases, without prior demand, upon the occurrence of a saving in rates, whether due to the proposal put forward by CVS or otherwise (including without limitation consequent upon any Valuation Officer's Notice issued in respect of the Property during the period of the instruction) hereinafter referred to as "the contingency" and notwithstanding any change to the relevant hereditaments comprising the Property (whether by merger, split or otherwise).

14. If CVS procures for the Client a reduction in the Rateable Value of the Property on a list proposed under the Local Government and Finance Act 1988 section 41 (5) inclusive of the Draft Rating List (or any statutory successor thereto) the Fee will be calculated by reference to rates saved based upon the reduction obtained in Rateable Value from that set out in the said proposed list.

15. The Fee is based on the annual Rates Payable saving calculated following a reduction in Rateable Value, or reduction in Rates Payable following an audit of liability, as confirmed by CVS, and not including any arrears due. The Fee is payable upon the reaching of agreement with the Valuation Officer as to alteration of the List, or if the matter has gone to a Valuation Tribunal upon the determination of the appeal, or upon confirming a reduction in rates payable by evaluating the rates liability through the audit process with the Billing Authority, based on the annual saving to date, per annum and the savings at the start of each subsequent rate liability year. Where Transitional Certificates are requested or Notices of Alteration within the current, preceding or succeeding Rating List, that CVS request, or are generated as a direct result of CVS' action, then the Fee is payable based on additional savings that are billable at the same rate. The calculation of the Fee will include any interest on overpayments made issued by the Billing Authority. In all cases CVS will continue to assist the Client in its dealings with the Valuation Office, the Valuation Tribunal or the Billing Authority, as the case may be, until such time as settlement for the agreed reduction in Rateable Value is received by the Client.

16. The Fee does not include the cost of any appeal(s) to the Land Tribunal and CVS may require upfront payment of any relevant fee(s) required to bring such an appeal.

Payment

17. CVS may issue a provisional invoice for the Fee upon the occurrence of the circumstances outlined overleaf, or in the event of cancellation, breach or termination of this Agreement by the Client.

18. All Fees will be due and payable within 28 days of the provisional invoice date, whether delivered or not. Time of payment of Fees will be of the essence of this Agreement. Payment is not made until the relevant sums clear CVS' account.

19. The Client will if requested to do so by CVS provide a direct debit mandate in respect of CVS' current and future Fees.

20. Without prejudice to any other remedies for late payment and irrespective of whether payment has been formally demanded the Client will be liable to pay to CVS interest on sums not paid by due date at the rate of 2% per month or part thereof, together with any costs of recovery incurred by CVS.

21. Any payments made by the Client to CVS hereunder may be applied by CVS as it deems fit and in particular, including without limitation towards payment of interest and other charges payable hereunder and then towards payment of the principal debt.

22. The Client will not be entitled for any reason to delay or withhold payment or claim any set off against any payment due under this Agreement or any other agreement between the parties without the prior written consent of a director of CVS.

No Warranty and Limitation of Liability

23. Unless set out herein no express warranty concerning the provision of Services is or has been given by or on behalf of CVS. In any event, CVS' entire liability to the Client arising out of or in connection with this Agreement (whether arising in contract, tort (including negligence) or otherwise) will be limited to 5% of the Rateable Value for the relevant Rating List. Notwithstanding the foregoing, nothing in this Agreement will limit CVS' liability to the Client for death or personal injury caused by its negligence, any liability for fraud or for any liability for which it is not permitted by law to exclude or limit.

24. CVS does not guarantee the outcome of any proposal to alter the Rateable Value. Subject to Clause 24, CVS will not be responsible for: (i) any amendment to the Rating List which might result in an increase in the liability of the Client; or (ii) for any fines incurred by the Client in relation to the provision of incorrect information unless the same results from the acts or omissions of CVS.

25. CVS will not be liable for any failure to fulfil in whole or in part any of its obligations hereunder, where such failure is caused or contributed to by a Force Majeure Event and in any such event CVS will be entitled to suspend its performance of its obligations under this Agreement until the Force Majeure event has passed or terminate this Agreement by giving reasonable notice to the Client. If CVS chooses to terminate the Agreement no fee will be payable by the Client.

Termination

26. CVS may terminate the Agreement forthwith by written notice to the Client if:

(a) the Client commits a substantial breach of any of its obligations hereunder (and where the breach is capable of remedy does not remedy it within 14 days of receipt of a notice specifying the breach and requiring its remedy); or

(b) the Client (including in the case of a partnership any partner) becomes bankrupt or enters into liquidation or is made the subject of an administration order or has a receiver appointed over its assets or any part thereof, or ceases or threatens to cease to carry on business or makes any informal arrangement with its creditors or enters into a voluntary arrangement with them, or permits distress or execution to be levied against any of its assets or issues a cheque which it permits to be returned unpaid by the bank or person upon whom it was drawn or if CVS has good reason to believe that the Client has or is likely to become unable to pay its debts as they fall due, or discovers that CVS has been induced to enter into this Agreement by a material misrepresentation or non disclosure of any material fact to it by the Client, provided always that such termination will not prejudice any right of action or remedy which will have accrued or will thereafter accrue to either party.

Fees on Cancellation or Breach of this Agreement by the Client

27. (a) CVS' entitlement to charge the Fee will not be affected or diminished in the event of the Client preventing CVS from performing the Services.

i) the Client elects not to proceed with any proposal which is the subject of the Agreement or other matter the pursuit of which is necessary to satisfy the contingency; or

ii) the Client elects to proceed with the proposal or any other such matter referred to in Clause 2(a) above, on terms materially different to those set out in the Agreement or existing at the date of the Agreement; or

iii) CVS discover at any time after the making of this Agreement that the Client has made a false declaration which may have any effect on CVS' assessment of the risk it incurs under the Agreement; or

iv) the Client takes, or omits to take, any action, or makes any statement, which renders the satisfaction of the contingency impossible or causes the contingency to be not satisfied (including without limitation the appointment of another agent, the assumption of or interference in the conduct of the proposal by the Client direct; or

v) a Force Majeure Event arises which renders the satisfaction of the contingency impossible or causes the contingency to be not satisfied (including, without limitation, the death of the Client, the compulsory acquisition of the Client's Property or its destruction); or

vi) after the date of this Agreement, the Valuation Officer issues a Notice to reduce the Rateable Value without discussion with CVS, (each of the events listed in (i) to (vi) being considered an "Interrupting Event").

If an Interrupting Event occurs CVS will be entitled to charge the Client a liquidated sum (representing a genuine pre-estimate of the fee that CVS would have earned for its Services) calculated using the formula 5% of Rateable Value for the relevant Rating List multiplied by F / 50 (where F is the percentage of savings in rates payable that CVS is entitled to as detailed in the Agreement) (the "Liquidated Sum"). Notwithstanding this, the parties agree that if a reduction in Rateable Value is notified prior to or following the Interrupting Event, the Liquidated Sum will be substituted by the fee that would have been payable to CVS for achieving such reduction in Rateable Value pursuant to this Agreement.

The terms of Clauses 18 and 19 will apply to such payment and the issue of an invoice pursuant to Clause 28 will not be taken to prejudice the continued provision of the Services by CVS should the Client so request.

Fees Payable in the Event of Cessation of Rates Liability of the Premises

28. If, during the currency of this Agreement for any reason the Client ceases to be the ratepayer of the Property or ceases to have legal liability to pay the rates on the Property it is agreed that:

(a) if: (i) the immediately succeeding ratepayer agrees to instruct CVS to continue with the proposal to alter the Rating List and to instruct CVS to act exclusively in respect of the proposal; (ii) CVS agrees to such instruction and consents in writing to the assignment of the Agreement; and (iii) the incoming ratepayer signs an Agreement with CVS accepting liability as new client under the terms of this Agreement; or

(b) if the Client instructs CVS to act exclusively on its behalf in respect of a proposal to alter the Rating Lists mentioned overleaf in respect of another property of equivalent size/Value to the Property on the terms herein; or

(c) if the Client procures for CVS to take over as sole agent any existing proposal or appeal in respect of another property of equivalent size/value to the Property, then there will be no fee payable by the Client to CVS on the Client ceasing to be the ratepayer for the Property.

However, if the circumstances set out in (a), (b) or (c) above do not occur, the Client shall pay to CVS as provided in Clause 27 as though the Client was ceasing to be the ratepayer as a result of an Interrupting Event.

General

29. The rights of CVS set out herein are additional to its general rights and remedies.

30. Failure by CVS to insist upon its full rights as set out under this Agreement will not constitute a variation or waiver by CVS of its standard conditions of trading under this Agreement or any other agreement between CVS and the Client. Any concession, latitude, waiver or allowance of time expressly or impliedly granted by CVS to the Client in relation to this Agreement will not prejudice CVS with regard to its subsequent enforcement of the terms of this Agreement.

31. This Agreement is personal to the Client and the Client will not assign, transfer, sub-contract or otherwise dispose of its rights or obligations under this Agreement without the prior written consent of CVS.

32. In the event that any provision of this Agreement is declared by any judicial or other competent authority to be unenforceable or indications of the same are received by either of the parties from any relevant competent authority, the parties will amend that provision in such reasonable manner as achieves the intention of the parties without illegality or, at the discretion of CVS, it may be severed from this Agreement, with the remaining provisions of this Agreement to remain in full force and effect, unless CVS in its discretion decides that the effect of such declaration is to defeat the original intention of the parties, in which event CVS will be entitled to terminate this Agreement by 7 days' notice to the Client.

33. The headings do not form part of this Agreement and are for guidance only.

34. The construction validity and performance of this Agreement will be governed by the Laws of England and any disputes which may arise under, out of, or in connection, or in relation to this Agreement will be subject to the exclusive jurisdiction of the English Courts.

35. Service of any notice connected with this Agreement in the course of the performance of this Agreement or thereafter, at the addresses given overleaf will be valid and sufficient. However, any notice required to be given by the Client to CVS under this Agreement or any information required to be sent by the Client to CVS under this Agreement must be in writing and delivered personally or sent by registered post to CVS at Oakland House, Talbot Road, Old Trafford, Manchester M16 0PQ. A written receipt will be given for personal deliveries. The risk that a posted letter may not be delivered rests with the Client who is advised (but not obliged) to enclose a stamped self addressed envelope for the provision of written receipt by CVS of their notice.

36. In the event that the Client has a complaint the Client will be entitled to have the complaint investigated and the complaint handling procedure maintained by CVS copies of which are available on request from CVS.