

ARC ENGINEERS LTD

Terms and Conditions of Appointment

Revised February 2011

OBLIGATIONS OF THE CONSULTANT

- 1.1. We, ARC Engineers Ltd, (The Consultant) shall exercise reasonable skill, care and diligence in the performance of the Services and the Additional Services if any. If in the performance of his services the Consultant has a discretion exercisable as between the Client and any contractor, the Consultant shall exercise that discretion fairly.
- 1.2. The obligations of the Consultant do not include a duty to advise as to the actual or possible presence of pollution or contamination or as to the risks of such matters having occurred, being present or occurring in the future unless the provision of such advice is specifically detailed within the Services.
- 1.3. Subject always to conditions beyond his reasonable control the Consultant shall use reasonable endeavours to perform the Services in accordance with the programme agreed between the Consultant and Client and any subsequent programmes agreed between the two parties.
- 1.4. Unless agreed otherwise, The Consultant shall not be responsible for any site supervision works or checking of construction

OBLIGATIONS OF THE CLIENT

- 2.1 The Client shall use his reasonable endeavours to provide to the Consultant without charge and in such time so as not to delay or disrupt the performance of the Services by the Consultant all necessary and relevant data and information in the possession of the Client, his agents, servants, other consultants or contractors and give such assistance and make such decisions as shall reasonably be required by the Consultant in the performance of the Services.
- 2.2 The Client shall appoint Contractors experienced with the type and scale of work to be carried undertaken. Periodic visits by the Consultant or his staff to the site shall not in any way affect the responsibilities of the Contractors or any Sub-Contractors for constructing the Works in compliance with the relevant contract documents and any instructions issued by the Consultant

ADDITIONAL WORKS

- 3.1 If the Consultant has to carry out additional work or site visits beyond the scope of works as defined in the fee proposal letter the Client shall make an additional payment to the Consultant in respect of the additional work carried out.
- 3.2 The additional payment shall either be calculated on a time charge basis at the hourly rates set out in the attached fee letter, or for an agreed fixed fee where the revised scope of works can readily be defined.

PAYMENT

- 4.1 Payment by the Client to the Consultant for the performance of the Services shall comprise the agreed Fees as set out in the accompanying "fee proposal letter" and "confirmation of fee agreement document"
- 4.2 The Final date for payment to the Consultant shall be 28 days from the date of invoice issued for the Services.
- 4.3 We reserve the right to seek reimbursement for additional and reasonable costs associated with the recovery of any invoices which remain outstanding beyond 28 days.
- 4.4 Interest and collection costs shall be charged on all amounts remaining unpaid thereafter in accordance with the Late Payments of Commercial Debts (interest) Act 1998.

INSURANCES

- 6.1 We undertake to maintain Professional Indemnity and Public Liability Insurance in respect of the Services provided that such insurance remains available from reputable companies based in the UK at commercially reasonable rates and terms.
- 6.2 Unless agreed otherwise, the total liability in the aggregate of the Consultant under or in connection with this Agreement 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 the sum of:
For Fees less than £10,000 total liability is limited to £250,000.00 (two hundred and fifty thousand pounds)
For Fees between £10,001 and £20,000 our total liability is limited to £1,000,000 (one million pounds)
- 6.3 No action or proceedings under or in respect of this agreement whether in contract or in tort or in negligence or for breach of statutory duty or otherwise shall be commenced against us after the period of six years from completion of the Services or such earlier date as may be prescribed by law

COPYRIGHT

Copyright in all drawings and documents prepared by us for delivery to you shall remain vested in us. You shall have a licence to use the drawings and documents for any purposes for which they were produced by us, subject always to us having received full payment for the Services in accordance with the provisions of this Appointment. We shall not be liable for the use of any such drawings or documents for any purpose other than that for which the same were prepared by us.

CONTRACTS

- 8.1 Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 8.2 This agreement is personal to you and non-assignable and we do not accept liability to any third party in contract, in tort or otherwise.
- 8.3 Where this agreement is a construction contract within the meaning of the Housing Grants, Construction and Regeneration Act 1996, either party may refer any dispute arising under the Agreement to adjudication in accordance with the Construction Council Model Adjudication Procedure.