

## **Standard terms and Conditions**

### **1. Definitions**

In these conditions, the following expressions shall have the following meanings:

- the 'Company' is the Environmental Health Resource Centre Limited (EHRC), whose registered office is 13 Oak Lodge, Eversley Park Road, London N21 1JL, and whose company registration number is 5554582.
- 'Services' is the supply of goods and/or Services referred to overleaf or in the documents referred to overleaf.
- 'Client' is the person, company, firm or other body for whom the Company is performing the Services.
- 'Price' means any fixed Price or aggregate of the hours spent at the hourly rate/rates quoted for performing the Services or any part of them and further sums becoming payable to the Company by virtue of variation to the scope of the Services.

### **2. Formation**

- (a) Any contract for Services by the Company for the Client shall be governed exclusively by these terms and conditions and by the provisions of the quotation attached in which is detailed the Price for the Services and also the scope of the Services in any particular case. These terms and conditions and the quotation and any correspondence subsequent thereto, but prior to the date of this contract dealing with contractual terms are hereinafter together referred to as the 'Contract Terms' and shall stand unless otherwise subsequently agreed to be amended and amended in writing by the Company. This contract shall override and take the place of all previous all oral and written representations concerning the Services or any other terms and conditions (including those submitted with any order the Client may place) howsoever they may be sought to be imposed by the Client or otherwise.
- (b) No alteration or amendment to the contract shall be made to the contract without prior agreement in writing between the Company and the Client.
- (c) The headings used herein are for convenience only and shall not affect construction.
- (d) Any quotation by the Company is given on the basis that no contract will come into existence until the Company dispatches to the Client an acknowledgement accepting an order. Any quotation is valid for a period of 30 days only from its date (unless a longer period is stated in the quotation) provided that the Client has not previously withdrawn it.
- (e) The Client shall be responsible to the Company for ensuring the accuracy of the terms of any order submitted (including any documents ancillary thereto in particular but without prejudice to the generality of the foregoing specifications, instructions, terms of reference) to the Company and for giving the Company all necessary information relating to the Services within sufficient time to enable the Company to perform the contract in accordance with its terms.
- (f) No order which has been accepted by the Company may be cancelled by the Client except with the agreement in writing of the Company and on terms that the Client shall indemnify the Company in full against all loss (including loss or profit), costs (including the costs of all labour and materials used or contracted for), damages, charges and expenses incurred by the Company as a result of cancellation.

### **3. Prices**

Unless otherwise expressly stated in writing by the Company, orders are accepted on the basis that:

- (a) Any Price quoted is the Price for the Services (after deduction of any discounts).
- (b) Any Price is quoted is exclusive of Value Added Tax, and any other impositions enacted by statute, statutory instrument or regulation, which shall be charged by the Company as required at the rate and in the manner prescribed in law from time to time and shall be paid in full by the Client in addition to the Price.
- (c) The Company may with seven (7) days prior notice adjust any Price stated to take account of any change in the costs of (inter alia) materials, labour, sub-contracts, transport, taxes, duties and current exchange rates ruling at the time of time of the quotation, any specification by the Client agreed by the Company, any delay caused by the Client or failures of the Client to give the Company adequate information or instructions.
- (d) Any typographical, clerical or other error or omission in any quotation, Price list, acceptance of offer, invoice or other document issued by the Company shall be subject to correction without liability on behalf of the Company.

### **4. Payment**

- (a) Subject to clause 4(c) below, the Company shall be entitled to invoice the Client for the Price either on or at any time after performance of the Services or for instalments of the Price in accordance with the terms of the quotation for performance of part of the Services or if the Client refuses performance of the Services at any time after the Company has notified the Client that it is ready to perform the Services

- (b) Prices are due and payable to, and into such bank account designated by the Company, without set-off or counterclaim in Pounds Sterling within 28 days from the date of the Companys invoice. Payment by cheque or other negotiable instrument is ineffective until it is honoured and the Companys bank account is credited with the amount due.
- (c) On failing to make full payment when due, the Client shall (without prejudice to any other rights of the Company) pay to the Company interest on the amount due at 4% per annum above the base rate from time to time of Lloyds Bank Plc from the date due for payment until the date of actual payment before and after (and as a separate continuing obligation not merging with) any judgement.
- (d) Consequential expenses (for example travel and hotel expenses) necessary for the performance of the service will be invoiced to the Client (where stated), and terms applying to the payment of the Price shall also apply to the payment of such expenses.

## **5. Location**

The Services will be undertaken at the place specified on the order.

## **6. Performance**

- (a) The Company shall exercise reasonable skill care and diligence in the performance of the Services.
- (b) If any part of the Services is found by the Company to be defective in materials supplied or work performed under normal use and service and (if applicable) when properly installed the Company will free of charge re-perform the Services or any part thereof that is defective provided the Company is informed of the defect within seven (7) days of discovery thereof. If the Client is in breach of this contract (including without limitation any obligation to make payment to the Company) the provisions of this clause shall not apply.
- (c) The Company will indemnify the Client against any loss, damage, cost, charge of expenses incurred by the Client in respect of any claim by a third party against the Client (subject always to an obligation to mitigate any liability, loss, damage, cost or expense to every practicable extent) caused by death, personal injury or damage to property real or personal arising directly out of the Companys breach of the contract terms up to their limits of indemnity provided by the Companys insurances covering these risks.
- (d) The Companys obligations and liabilities to the Client in respect of the performance of the Services or the goods and Services supplied pursuant thereto shall be limited to:-
  - i. Those expressly set out in clause 6(b) and 6(c).
  - ii. In respect of any other loss, damage, cost, charge and expense incurred by the Client arising from the Companys breach of the contract terms to a maximum of £500,000 in the aggregate, and £1 million for public/product liability.

The Client acknowledges that this is reasonable and reflected in the Price and shall accept risk and/or insure accordingly.

- (e) The Company shall not be liable to the Client for any consequential or indirect loss, damage, cost, charges or expense arising from the Companys breach of the contract terms including but without prejudice to the generality of the of the foregoing loss of profit, contribution or opportunity.
- (f) The Company will perform the Services using its own staff. However, the Company reserves its right to sub-let or sub-contract the whole or part of the work and will notify the Client accordingly.
- (g) In the event that any of the Clients property is involved in or requires to be dismantled or moved or replaced in order to enable the Company to undertake the Services, unless otherwise agreed in writing by the Company the Client shall carry out the work required to dismantle, or move or replace the said property at the Clients sole cost and risk in their property shall remain with the Client.
- (h) In respect of all samples used in the Services, the Company reserves the right to dispose of these following the completion of the Services.

## **7. Specifications, descriptions, drawings and intellectual property**

- (a) The Company reserves the right to make any changes in the specification of the scope of the Services which are required to conform with any applicable safety or other statutory requirement or made necessary because of features or site conditions.
- (b) Where the Services is performed in accordance with the information or drawings supplied by the Client or to its design or specification or where the Services is altered in accordance with the Clients instructions:-
  - i. No guarantee or warranty is given by the Company as to the practicability, efficiency, safety or otherwise of the Services (this being without prejudice to any other of the contract terms);
  - ii. The Client will indemnify and keep the Company indemnified against:-
    - (1) Any claim, loss, damage, cost, expense or other liability arising therefrom including but not limited to the infringement of any third party's intellectual property rights or the provision of and statute, statutory instrument or regulation.

- (2) Any impracticability, inefficiency, lack of safety or other defect in the Services where such defect is due (whether in whole or in part) to faults or omissions in such information, drawings, design, specification or instructions.

Unless otherwise expressly agreed in writing, the Company shall be under no obligation to perform the Services in accordance with any specification, information, drawing or sample provided by the Client.

- (c) All patents, designs, drawings, samples, models, reports and similar items prepared and know how used by the Company relating to the Services and the copyright. And other intellectual property rights therein shall remain the property of the Company and shall be treated as confidential and shall not be copied reproduced or disclosed to any third party without the Companys prior written consent. Such material shall be returned by the Client on demand.
- (d) No right or licence is granted to the Client to use the intellectual property rights described in clause 7(b) except for the purpose for which the Services was performed.
- (e) The Company will indemnify the Client against any loss, damage, cost, charge or expense incurred by the Client should the Services infringe any intellectual property right including without prejudice to the generality of the foregoing patents, registered designs, design right and copyright up to the limits of indemnity provided by the Companys insurances covering these risks.

## **8. Delays**

- (a) The Company will endeavour to complete the Services within the time agreed (if any) and if no time is agreed, within a reasonable time, but it shall not be liable for any loss or damage whatsoever caused directly or indirectly by a delay in the completion of the Services.
- (b) If the Client cancels, extends or delays, refuses performance of any part of the Services at the time agreed (if any) or if no time is agreed within a reasonable time then the Client will be liable (without prejudice to any other rights of the Company) or for an adjustment of the Price in accordance with the quoted rates for standing time and/or any resulting loss damages or expenses incurred by the Company.
- (c) The Company may perform the Services in stages and shall be entitled to payment for all instalments of the Services. Without otherwise limiting the contract terms, no failure or defect in respect of any instalments shall enable the Client to repudiate or cancel the whole contract or any other instalment.

## **9. Use of the Services by the Client**

The Services can only be relied upon by the Client to the extent the purpose is expressly agreed in writing by the Company and any instructions given by the Company in respect thereof. The Client shall indemnify and hold harmless the Company for liabilities arising from any other use. In the case of the Services relating to samples, use of prototype goods or Services, the Client shall indemnify the Company against all liabilities incurred by the Company in relation to use of the service other than for testing and evaluation by the Client.

## **10. Causes beyond reasonable control**

Whilst the Company intends to use all reasonable endeavours to perform its obligations under the contract if by reason of causes of any kind whatsoever beyond the Companys control or which it could not with reasonable diligence have avoided, the completion of the Services is in the Companys opinion rendered impracticable or delayed by more than three months either the Client or the Company may cancel or suspend the Services by notice in writing to that effect so far as the Services relates to Services not then performed on goods not then supplied, and such cancellation or suspension shall not give rise to any claim by the Client or the Company and the Client shall remain liable to pay for those parts of the Services performed and/or all costs payable by the Company in connection with the provision of the Services prior to the date of such cancellation or suspension.

## **11. Assignment**

- (a) The Client shall not assign, mortgage, charge or sub-let or otherwise dispose of any contract rights thereunder in whole or in part without the Companys prior written consent. Any of he above purported to be effected without such consent shall be void.
- (b) The Company shall be entitled to assign, sub-contract or sub-let this contract or any part thereof with the Clients prior written consent which consent shall not be unreasonably withheld.
- (c) The Company shall be entitled to perform any of its obligations and/or exercise any of its rights itself or through or jointly with any company or companies controlled by or under the same control (direct or indirect) as the Company.

## **12. Events of default, termination, repossession, suspension**

if:

- (a) The Client fails to pay the Price when due or otherwise breaches any of the contract terms or any other terms agreed with the Company; or
- (b) The Client is, or for statutory purposes is deemed to be or appears to be unable to pay its debts as they become due, or the value of its assets is less than the amount of its liabilities (including contingent and prospective liabilities) of the Client otherwise becomes insolvent or suspends payment or threatens to do so or ceases to trade; or

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(c) Steps are taken to:

- i propose any composition, scheme or arrangement, compromise or arrangement involving the Client and its creditors generally: or
- ii obtain an administration order or appoint any administrative or other receiver or manager in relation to, or put in force any legal process against the Client or any of its property: or
- iii enforce any other charge or security over the Clients property: or
- iv repossess any goods in the Clients possession under any agreement: or
- v wind-up or dissolve the Client: or

(d) Where the Client is an individual or partnership, he or any partner dies or any steps are taken with a view to making a bankruptcy order against him or any partner: or

(e) Outside England and Wales anything corresponding to any of the above occurs: or

(f) The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client.

Then in the cases of (a) to (e) set out here above the Client shall notify the Company forthwith in writing of such event and in all cases the Company may (at its discretion, whether or not it has received notice from the Client as aforesaid, and without prejudice to its other rights hereunder or otherwise) at any time by notice to the Client to do any one or (to the extent not inconsistent with one another) more of the following:-

- i. Terminate, cancel and/or rescind the contract and other contracts with the Client:
- ii. Declare (whereupon there shall forthwith become) immediately due, payable and interest-bearing under clause 4(c) above any amounts owed by the Client to the Company under any contract:
- iii. Suspend any deliveries or provision of Services to be made under any contract with the Client:
- iv. Proceed against the Client for the Price outstanding and/or damages.

### **13. Site safety**

The Client shall inform the Company working on the Client's site of the safety requirements and practices relating thereto and the identity of the safety supervisor. The Company will not act as principal contractor under the CONDRAM Regulations unless expressly agreed in writing.

### **14. Forbearance**

The Companys rights shall no be prejudiced or restricted by an indulgence or forbearance extended to the Client and no waiver by the Company in respect of any breach shall operate as a waiver in respect of any subsequent breach.

### **15. General**

- (a) Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that party at its registered office or principal place of business.
- (b) If any provision herein or part thereof is rendered unenforceable such provisions shall be deemed to be saveable and the remaining provisions shall not be affected or impaired thereby.
- (c) Termination of any contract for any cause shall not release any party from any liability which had already accrued at the time of termination or which may thereafter accrue in respect of any act or omission prior to such termination.
- (d) The remedies conferred by the contract terms are exclusive of any other remedies otherwise available at law in particular but without prejudice to the generality of the foregoing any remedy in law arising out of any warranty condition or other term implied by statute and including any limitation periods applicable in respect of such remedies.

### **16. Law**

The contract shall in all respects be subject to and construed in accordance with English Law and the Client submits to the exclusive jurisdiction of the English Courts.