



## TERMS & CONDITIONS

### PDE Standard Business Terms and Conditions

#### The Agreement

Unless otherwise stated and agreed, the following terms and conditions, together with the proposal made by PDE Consulting Engineers Ltd ('the Consultant') ref. \_\_\_\_\_ and dated \_\_\_\_\_ and the written instruction from \_\_\_\_\_ ('the Client') ref. \_\_\_\_\_ and dated \_\_\_\_\_ comprise the entire Agreement between the parties.

The following "Conditions of Engagement and Contract" shall apply to all of the "Works" carried out by the Consultant on behalf of the Client. They shall constitute the sole contract between the Consultant and the Client until such time as they are replaced by a written, agreed, signed and subsequent "Contract of Engagement".

#### Terms & Definitions

- The "Works" shall mean the Scope of Services, Duties and Activities provided by the Consultant to the Client.
- The Client is the person, Consultant, authority or other body who instructs the Consultant to carry out the work.
- The Contract is between the Client and the Consultant.



## The Services

- Instruction must be confirmed in writing by the Client or authorised agent prior to commencement of the Services.
- The Client guarantees that it has the right to have the Services performed, including that any licences and approvals have been obtained. The Client shall arrange such rights of access to property and use of facilities as reasonably inferred by this Agreement.
- The Client shall be entitled to request additional work or changes in the Services. These shall be referred to as variations and shall be clearly defined in writing by the Client. PDE shall confirm any additional costs and impact to the agreed programme. These shall be agreed, in writing, prior to implementation of the variation.
- Unless otherwise agreed, PDE will maintain all project documentation for a minimum period of 2 years.
- Use of the project documents by the Client shall be limited to the particular purpose for which the documents were originally intended and not for any other purpose.
- The scope, nature and requirement of the Consultant's works shall be strictly limited to that detailed. All works not included within the foregoing shall be regarded as additional and the Consultant reserves the right to charge for these additional works. Charges shall be recoverable on a time charge basis levied at the Consultant's non-discounted hourly charge out rates.

## Warranty

- PDE warrants that the Services will be carried out with reasonable skill and care and within the provisions of the Agreement. The Client acknowledges that all services constitute advice and not instruction, and that they shall take steps as necessary to ensure the suitability and efficacy of such advice before undertaking to implement it. PDE makes no other Warranty either express or implied.



## Remuneration

- Recoverable fees shall be as detailed within the attached letter. All monies due to the Consultant are to be paid in £UK sterling, unless specifically declared otherwise.
- Prices are valid for a period of 60 days from the proposal date. If written instruction is not received within this period, or if the required Services are changed, PDE reserve the right to review the proposal.
- Prices are exclusive of VAT or any other local sales tax, unless stated otherwise.
- The Client shall pay PDE for the Services as specified in the proposal.
- Fees will be invoiced as detailed on the draw down schedule laid out in a proposal letter. If no draw down schedule is agreed invoices will be submitted monthly based on work completed, unless alternative invoice scheduling is agreed by both parties.
- Payment shall be made within 30 days of the date of the invoice unless otherwise agreed. Late payments will be charged at a rate of 2% above base lending rate per month or part thereof. The Consultant may suspend performance of the Services until payment is received.
- Where there is disagreement with any part of the invoice the Client shall notify PDE within 15 days of the invoice date and the parties shall make every effort to resolve the disputed portion. The Client shall pay the other parts as specified in this Agreement.
- Where Services are completed for which the fees are not specified or agreed between the parties, payments shall be calculated on current hourly rates and all reasonable disbursements and expenses shall be invoiced at cost plus 5% for the cost of processing and financing.
- The scale of hourly charge out rates will be amended annually, but the Consultant reserves the right to amend these at an interim date should exceptional circumstances so require.
- Where third party services are contracted for by the Consultant in order to complete the work for the Client, the Consultant reserves the right to render interim invoices to recharge the cost and management of third-party services to the Client.



### Third party rights

- Unless otherwise agreed in writing, 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.
- Any documentation produced by PDE under the terms of this Agreement has been prepared for the sole benefit of the Client, unless agreed otherwise in writing.

### Assignment

- The Client shall not assign or sublet or otherwise transfer any obligation or benefit under this Agreement without prior written consent of PDE.
- All intellectual property rights and copyright associated with the Consultant's services shall remain vested in and the property of the Consultant. A specific licence for use may be granted by the Consultant. Any such licence is to be strictly limited to issues associated with the project or works. The Consultant will not accept any liability whatsoever for any use of the materials to which the licence is granted for any purpose other than the original intent. In the event that the Client is in default of payment of monies due to the Consultant such licence is agreed to be immediately withdrawn and revoked.

### Safety, Health and Environment (SHE)

- The Client shall inform PDE of any real or potential SHE hazard which may be relevant to the Services.

### Confidentiality

- Each party shall, unless otherwise obliged by law, maintain the confidentiality of all project documentation unless otherwise agreed in writing. Both parties may disclose information to their subcontractors without prior written consent to the extent necessary to complete the Services.



### Termination

- The Client shall have the right to terminate this Agreement at any time upon 30 days' written notice to PDE.
- PDE shall have the right to immediately suspend the provision of the Services where circumstances arise for which PDE is not responsible and which make it impractical or irresponsible to perform the Services.
- Both the Client and PDE shall have the right to terminate this Agreement if the other party is in material breach of the obligations of this Agreement or if the other party goes bankrupt or enters into liquidation proceedings.
- In the event of termination by either party, the Client shall reimburse PDE for all Services performed up to the date of termination and all costs and expenses reasonably incurred by PDE as a consequence of termination.

### Liability and Indemnity

- The period of Consultant's liability is from the date of written instruction by the Client to two years after completion of the Services.
- The Client shall indemnify and hold harmless PDE from and against all losses, claims and claims and liabilities related to or arising out of this Agreement howsoever caused, excepting only the wilful misconduct of PDE.
- PDE shall not be liable for damages resulting in cessation of Services due to (a) health and safety or environmental issues created by inherently unsafe conditions at the site, or (b) unsafe conditions created by other contractors.
- PDE shall take reasonable care to minimise damage to property, including utilities and other subsurface obstructions. If, notwithstanding such endeavours, any such property is damaged, the Client shall indemnify and hold harmless PDE from and against all consequences of such an event.
- Unless specifically stated to the contrary, any budgetary or programming opinion offered by the Consultant is to be regarded by the Client as broad guidance only and shall not be relied upon in any material issue by the Client.



## Insurance

- Both the Client and PDE agree to maintain liability insurances as required by law and, in addition, to satisfy each organisation's requirements in line with the scope of the Works.
- The liability of the Consultant for any claim or claims arising out of or in connection with pollution and contamination is excluded.
- The Consultant's liability for any claim or claims shall be limited to such sum as it would be just and equitable for the Consultant to pay having regard to the extent of his responsibility for the loss or damage suffered as a result of each claim or the series of claims in question ("the loss and damage") and on the assumption that:
  - (a) all other Consultants and all Contractors shall have provided contractual undertakings on terms no less onerous than those applying to the Consultant in respect of the carrying out of their obligations, and
  - (b) there are no exclusions of or limitations of liability nor joint insurance or co-insurance provisions between the Client and any other party referred to in this clause and any other party who is responsible to any extent for the loss and damage is contractually liable to the Client for the loss and damage, and
  - (c) all other Consultants and all Contractors have paid, or agreed to pay, to the Client such proportion of the loss and damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss and damage.
- Nothing within these standard Terms and Conditions shall be regarded as a commitment by the Consultant to accept, adopt or participate in the novation or transfer of this agreement to any third party.

## Law

- The Agreement shall be governed and construed in accordance with the laws of England and Wales.
- If any dispute that arises in relation to this Agreement cannot be resolved through direct discussions, the parties shall first attempt to settle in an amicable manner through mediation. If an independent mediator cannot be agreed the Institution of Arbitrators shall appoint such a specialist
- If any term or condition of this agreement is for any reasons held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this agreement and the validity and enforceability of the remainder of this agreement shall not be affected or impaired thereby.
- By receipt, and in the absence of a written declaration to the contrary, these initial "Standard Terms and Conditions of Engagement", all as scheduled above, are accepted by the Client and deemed to constitute a contract between the Client and the Consultant for the delivery of the Works.