

Cook Ground Investigation Limited

Standard Terms of Business

1 The Agreement, the Parties and the Services

- a) This Agreement is a contract for supply of services between the following parties (together referred as “the Parties” as each as the “Party”):
- b) The Client, who wishes to receive certain services as specified in the Quote, or as available within the General Rates (“the Services”), and
- c) Cook Ground Investigation Limited, company registration number 9079644 as defined in the Quote (“the Contractor”), whose registered office is at 18 Brookfields, Castle Cary, Somerset, BA7 7BS.
- d) The Agreement includes the Quote or General Rates (defined as the document, howsoever called, to which these Standard Terms and Conditions are attached) and its schedules, including these Standard Terms and Conditions. In the event of a conflict between these Standard Terms and Conditions and the express written terms of the Quote and its other schedules, the latter documents shall prevail. The Quote or General Rates, including these Standard Terms and Conditions and other schedules will be deemed to be accepted by the Client by virtue of the Client instructing the Contractor to proceed with performing the Services.

2 Contractor’s Obligations

The Contractor shall exercise reasonable skill care and diligence in the provision of the Services and all duties hereunder and shall only be liable if and to the extent that the Contractor has been negligent in such provision. The Contractor shall use reasonable endeavours to perform the Services in accordance with any programme agreed with the Client from time to time. The Contractor shall have no liability for any failure or delay in the provision of the Services or any part thereof resulting from any condition or circumstance beyond the reasonable control of the Contractor and the Client shall pay the Contractor in accordance with Clause 11 hereof during the persistence of such condition or circumstance.

When the Services require the Contractor to act in a representative capacity carrying out the instructions of or acting on behalf of the Client, the Contractor shall be deemed to be acting as the Client's agent. The Client hereby indemnifies both the Contractor and any individual or party that it may instruct against all claims, damages, costs or charges for which they may be or become liable for in acting as the Client's agent, where the same arise by reason of the acts, omissions, negligence or breach of duty of or by the Client.

3 Third Party Rights

Save as expressly stated in Clause 13(d) hereof, 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.

4 Assignment and Sub-Letting

The Contractor shall be entitled to assign or sub-contract the performance of the Services without the consent of the Client unless provided otherwise in the Appointment Document. The Client shall not assign, sub-let or otherwise transfer any obligation or benefit under this Agreement without the prior written consent of the Contractor which consent shall not unreasonably be delayed or withheld. Assignment shall be by absolute legal assignment only and only to a party taking on the entire role of the Contractor or Client as the case may be in relation to the Project.

Cook Ground Investigation Limited

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Registered Address: 18 Brookfields, Castle Cary, Somerset BA7 7BS
Company Registration Number: 9079644 VAT Registration: 188 4087 66

5 Documentation and Confidentiality

The Contractor owns all intellectual property rights relating to any designs, drawings, plans, specifications, design details, photographs, brochures, reports, data and other documents produced by the Contractor, or on behalf of the Contractor, in the course of carrying out the Services (“the Documents”).

The Contractor shall grant the Client a licence to use the Documents for any purpose related to the Project. Such licence shall enable the Client to use the Documents for the extension of the Project but such use shall not include a licence to reproduce the designs contained therein for any extension of the Project.

In the event of the Client being in default of payment of any fees or other amounts due under this Agreement the Contractor may revoke the licence granted herein by giving seven days’ notice.

The Contractor shall not be liable for the use by the Client or by any person of any of the Documents for any purpose other than that for which the same were prepared by or on behalf of the Contractor.

Each Party shall maintain the confidentiality of any documents and other information received from the other Party which are confidential. Such recipient shall not release or disclose such documents or information, or permit release or disclosure, except as authorised by the other Party or as obliged to do so by law.

6 Obligations of the Client

The Client warrants that it has the right to have the Services performed and has obtained necessary licenses and approvals. The Client shall arrange such rights of access to the property and use of the Client’s facilities as described in (or reasonably inferred from) this Agreement. The Client shall use reasonable endeavors to supply to the Contractor, promptly and free of charge:

- a) any instructions, decisions, consents and approvals, and
- b) any relevant data and information in the possession of the Client or any of his agents, consultants or contractors which the Contractor may require in order to carry out the Services. The Contractor shall not be liable for the consequences of any inaccuracies in the data or information provided by the Client to the Contractor.

The Client shall indemnify and hold harmless the Contractor from and against all consequences resulting from the Client’s failure to comply with their obligations under this Agreement.

7 Site Operations

The Services may include visits to site(s) by the Contractor, who shall then be the Client’s visitor. The Contractor shall not be deemed to have assumed the role of occupier or otherwise to have assumed control or responsibility for the site or the personnel on it. The Client shall notify any other consultants and contractors on the site (other than the Contractor’s sub-contractors):

- a) of the presence of the Contractor’s personnel; and
- b) of the extent (if any) to which the Contractor is authorised to direct and/or supervise their work; and
- c) that the presence (or otherwise) of the Contractor’s personnel does not relieve them of their responsibilities including safety and their obligations under their respective contracts and agreements.

In undertaking any intrusive site works, the Contractor shall employ reasonable care in accordance with its applicable utility clearance protocols and the legal requirements of the country in which the Services are being provided (in each case, as at the time the Services are provided) (“Standards”) to limit damage to property, including overhead and in-ground utilities and obstructions (such as but not limited to water, telephone, electric, gas and sewer lines and, pipes, tanks, cables and structures) (“Utilities”). The Client shall correctly identify in writing to the Contractor the precise location of all subsurface Utilities prior to commencement of the Services. If, despite material compliance with the Standards, Utilities are encountered and/or damaged, (a) the Contractor shall be released and indemnified from all claims, damages (direct, indirect or

consequential), costs (including attorneys' fees) and other liabilities that may arise from or relate thereto and (b) Client shall pay the Contractor's fees (at standard rates) and reasonable costs and expenses in connection therewith, including those arising from delays.

In the event of concerns regarding the safety of the Contractor personnel relating to or arising from the incorrect location or incomplete information on in-ground utilities and structures (as provided by the Client or third parties), the Contractor reserves the right to stop work until resolution of such issues or to terminate the Contract, at the reasonable discretion of the Contractor.

Prior to mobilisation it is the responsibility of the Client to inform the Contractor of known or potential contamination on the surface or in the ground at all drilling locations.

The Contractor's staff will be equipped with safety boots (steel toe cap and midsole), hard hat, ear defenders, high visibility clothing, cotton overalls, gloves suitable for mechanical handling hazards, safety glasses and disposal respiratory protection for particulates. Prior to mobilisation the Client must inform the Contractor of any additional site specific Personal Protective Equipment (PPE) requirements. Should specialist PPE be required, the Contractor reserves the right to charge the Client at cost plus a handling charge of 15 per cent which will be added to the fees, unless the relevant PPE is supplied to Cook Ground Investigation by the Client.

The Client must provide or make arrangement for the Contractor's safe access and egress for all sites, including access and egress by a 4 wheeled drive vehicle, trailer, operators, drilling plant and equipment and other equipment required by the Contractor to complete its work. The Contractor reserves the right to charge any fees incurred for parking, toll or other charges (for example vehicle congestion zone and emission zone charges) which are required for the contractor to carry its work without undue delay or restrictions, at cost plus a handling charge of 15 per cent and added to the Fees.

The Client must provide or make arrangement suitable welfare facilities for the use of the Contractor staff on all sites prior to works commencing. The Contractor reserves the right to hire in appropriate welfare facilities should the facilities present on site be deemed insufficient. The cost for the provision of any such facilities will be charged to the Client at cost plus a handling charge of 15 per cent and added to the Fees. The Contractor will not be held responsible for a delay in the work program while such arrangements are being made.

The Client must provide or make arrangements for appropriate decontamination measures to be in place for the Contractor's staff, plant and equipment, as deemed necessary by the Client's appropriate risk assessments and control measures, for sites which are or have the potential to be affected by ground contamination. The Contractor reserves the right to hire in appropriate decontamination facilities should the facilities present on site be deemed insufficient. The cost for the provision of any such facilities will be charged to the Client at cost plus a handling charge of 15 per cent and added to the Fees. The Contractor will not be held responsible for a delay in the work program while such arrangements are being made.

The Client must supply a secure location for the safe overnight storage for drilling plant, equipment and installation materials on any site that has no security in place. Construction hording or Heras style mesh fencing is not considered to be secure unless a security guard is in attendance. The Contractor reserves the right to hire secure storage facilities should the facilities provided by the client be deemed insufficient. The cost for the provision of secure facilities will be charged to the Client at cost plus a handling charge of 15 per cent and added to the Fees. The Contractor will not be held responsible for a delay in the work program while such arrangements are being made.

The Contractor's staff work an 8 hour shift on site (including half an hour for lunch), subject to a sufficient volume of work being available. The Contractor will inform the Client in the Quote for the need to allow additional travel time (for example on a separate day), depending on the location of the site. The Contractor reserves the right to charge mobilisation fees associated with travel and accommodation costs.

It is the responsibility of the Client to ensure that appropriate storage, classification and disposal arrangements are

made on site for soil arisings and commercial waste generated during a site investigation. The Contractor will place soil arisings and waste into on-site storage containers, as directed by the Client. If the Client has not provided storage arrangements, soil arisings and other waste will be left at each drilling location. The Contractor will not be responsible for the disposal of any soil arisings or any other commercial waste generated by the Client.

8 Remuneration

The Client shall pay the Contractor for the Services.

- d) All payments of fees shall be made monthly.
- e) If the project programme is extended then the total fees will be increased.
- f) All reasonable disbursements shall be reimbursed at cost plus a handling charge of 15% unless otherwise defined in the Appointment Document.
- g) Should an invoicing schedule be used, an invoicing interval of four weeks shall apply in the event that the Services extend beyond the final date in the above schedule.
- h) Amounts quoted in this Agreement exclude any Value Added Tax ("VAT") payable under the law and (if applicable) any withholding tax, sales tax or other tax, or duties, levies or other tax charges. To the extent any such tax is imposed on the execution of the Project or Contractor's services, the Client shall pay such tax in addition to the fees for the Services. However, this does not apply to the corporate income tax on profits which the Contractor would normally incur in its home country.

9 Additional Remuneration

If the Contractor has to carry out additional work and/or suffers disruption in the performance of the Services because the Project is varied by the Client (which might include for example a variation to the Services, changes to the design concept or detail) or because additional services are performed by agreement with the Client or because of any delay by the Client in fulfilling his obligations or in taking any steps necessary for the execution of the Project or because the Contractor is delayed by others (or by events which were not reasonably foreseeable) or because of other reasons beyond the control of the Contractor then the Client shall make an additional payment to the Contractor in respect of the additional work carried out and additional resources employed (unless and to the extent that the additional work has been occasioned by the failure of the Contractor to exercise reasonable skill care and diligence) and/or the disruption suffered on the basis of time based fees as set out in Clause 8 hereof unless otherwise agreed. The Contractor shall where practicable and if so requested by the Client give an initial estimate of the additional payment likely to be incurred.

10 Payment Procedure

The Contractor's invoice or the request for payment (as the case may be) shall be the payment notice. The Client shall pay the Contractor each amount stated on the payment notice including the tax in accordance with clause 8(f) where applicable within thirty days (the final date) of the due date, being the date on which the Contractor submitted such payment notice subject to correction of any error. The Client may not withhold any payment after the final date for payment of any part of the payment notice unless the Client gives, not later than seven days before such final date, a notice to pay less specifying the amount that the Client considers to be due to the Contractor on the date the notice is served and the basis on which such amount is calculated. The Client shall not withhold payment of any part of the payment notice by reason of claims or alleged claims against the Contractor unless the amount to be withheld has been agreed with the Contractor as due to the Client or has been determined by an adjudicator or the courts to be due to the Client in accordance with Clause 18.

11 Termination and Delay

The Services may be terminated by the Contractor serving one weeks' notice in writing on the Client. In the event of termination, the Contractor shall be entitled to invoice the Client for all fees and expenses incurred up to the date that the Services are terminated.

The Contractor shall not be in breach of this Agreement nor liable for delay in performing, or failure to perform, any

of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for one month, the Contractor may terminate this Agreement by giving seven days' written notice to the Client.

In the event the Client is unable to pay its debts as they fall due or admits inability to pay its debts; or in the event of the insolvency of the Client; or in the event of the failure of the Client to pay the notified sum to the Contractor by the final date for payment (unless he has notified his intention to pay less than the notified sum in accordance with Clause 11), the Contractor may terminate this Agreement by giving seven days' notice. Additionally, the Contractor can suspend the performance of any part of the Services for non-payment by giving not less than seven days' written notice to the Client stating the ground or grounds on which it is intended to suspend performance. The right to suspend performance shall cease when the Client makes payment in full of any amount due to the Contractor and any period during which performance is validly suspended pursuant to this Clause 11 shall be taken into account when assessing the time taken by the Contractor to complete the Services. Payment to the Contractor in the event of termination or suspension shall comprise payments due for such Services carried out up to and including the date of termination or suspension together with any disbursements due under Clause 8 hereof, the costs of repatriation (if any), demobilisation or remobilisation and of any commitments entered into by the Contractor on the assumption that this Agreement would run its full course. Payment to the Contractor during the persistence of any delay for reasons beyond the reasonable control of the Contractor shall be all payments due pursuant to Clause 8 hereof. Termination of the Contractor's appointment under this Agreement shall not prejudice or affect the accrued rights or claims of either Party to this Agreement.

12 Liability

The exclusions and limitations set out in this Clause 12 shall not apply to personal injury or death or other matters whereby such exclusion or limitation is prohibited by law.

- a) Notwithstanding any other provisions of this Agreement, and without prejudice to any provision contained herein which excludes or limits liability to a lesser amount, the total liability in aggregate of the Contractor to the Client and/or any third party under or in connection with this Agreement, whether in contract or in tort, in negligence or for breach of statutory duty or otherwise shall be limited to the lesser of:
 - i). Ten times the total fee calculated in accordance with this Agreement where such fee is over £20,000 or four times the total fee calculated in accordance with this Agreement in case such fee is under or equal to £20,000; and
 - ii). One million pounds.

Where the fee is not quoted in GBP sterling, the exchange rate as of the date of the Appointment Document shall be used to calculate the GBP sterling equivalent of the above unless the exchange rate is defined otherwise in the Appointment Document.
- b) The Contractor shall have no liability for claims arising out of or in connection with acts of terrorism.
- c) If the Contractor is considered to be liable jointly with third parties to the Client the proportion of compensation payable by the Contractor shall be limited solely to a just and equitable proportion of liability which is attributable to the Contractor's breach and on the assumption that the relevant third parties have paid a just and equitable proportion having regard to the extent of their responsibility. The Contractor's liability shall be limited to and form a part of the total aggregate amount set out in Clause 12(a) above.
- d) No claims in contract, tort or breach of statutory duty (including negligence) arising out of or in connection with this Agreement shall be brought personally against any of the Contractor's employees or directors or members involved in the provision of the Services (whether expressly named or not in this Agreement) and any such employees, directors and members may rely on this sub-clause.

- e) Neither Party to this Agreement shall have any liability to the other Party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profits, loss of use, loss of production, loss of goodwill, loss of business or loss of opportunity, or for any consequential loss or indirect loss of any nature suffered or allegedly suffered by the other Party.
- f) No action or proceedings under or in connection with this Agreement whether in contract or in tort, in negligence or for breach of statutory duty or otherwise shall be commenced against the Contractor by the Client and/or any third party (including a claim brought under the Civil Liability (Contribution) Act 1978) after the expiry of three years from the date of substantial completion of the Services or practical completion of the Project (whichever is earlier) or such earlier date as may be prescribed by law.

13 Insurance

The Contractor shall affect and maintain professional indemnity insurance for the period of three years from the date of completion of the Services in an amount not less than the lesser of the two amounts calculated in accordance with Clause 12(a) hereof in respect of the Services, unless such cover is not available to the Contractor at commercially reasonable rates. If such insurance cover is not available, the Contractor shall promptly notify the Client.

14 Anti-bribery

Both Parties shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including the Bribery Act 2010.

15 Data Protection

The Parties will in the performance of their respective obligations under the Agreement share personal data about certain employees or third parties engaged by either Party whom are working to fulfil the Agreement.

The Parties, as applicable, will therefore collect and process the personal data as data controllers and hereby acknowledge and agrees that they will process personal data in compliance with applicable data protection laws, in accordance with the responsibility of a data controller as set out therein.

The Parties agree that, where applicable, they will provide their employees and/or third parties engaged by the Parties, whom are working to fulfil the Agreement, with information about the other Party's collection and processing of their personal data in accordance with applicable data protection laws, including Article 13 and 14 of the Regulation (EU) 2016/679, the General Data Protection Regulation. Either Party will defend and indemnify the other Party from and against all claims raised by an employee or third party engaged by the Party due to the Party's non-compliance with this Clause.

The Contractor may otherwise collect and use technical information, including Client's data gathered as part of the Services, for the purpose of improving its products and services.

16 Non-solicitation

For the duration of the Services, and for a period of twelve months after termination or completion of the Services, neither the Client, nor any company, individual or person associated or connected with the Client, shall offer employment to any of the Contractor's employees who have been concerned with the provision of the Services, without the prior agreement in writing of the Contractor.

17 Notices

Any notice to be given under this Agreement shall be in writing and given by delivering it personally or sending it by pre-paid recorded delivery or registered post (or registered airmail in the case of an address for service outside the United Kingdom) to the Client or the Contractor at their registered addresses. Any such notice shall be deemed to have been received:

- a) delivered personally, at the time of delivery;

- b) in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting;
- c) in the case of registered airmail, five (5) days from the date of posting;

provided that if deemed receipt occurs before 9am on a Business Day the notice shall be deemed to have been received at 9am on that day and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day. Business Day means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business. This Clause does not apply to the payment notices issued by the Contractor.

18 Disputes

The Parties shall use all reasonable endeavours to settle any disputes arising between them amicably.

At any time, either Party may refer any dispute to adjudication, which shall be in accordance with the TeCSA

Adjudication Rules current at the date of the dispute. The adjudicator may in his decision allocate his fees and expenses between the Parties and may, within five days of giving his decision to the Parties, correct the decision to remove a clerical or typographical error arising by accident or omission.

19 Severance

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of this Agreement.

20 Governing Law

This Agreement shall be governed by English law and the Parties agree to submit to the exclusive jurisdiction of the English courts.