

### 1. Civic

"Civic" is a trading name used by companies within the Civic Plus Limited group (registered number: 14208271), including Civic Engineers Limited (registered number 06824088), Civic Plus Limited (registered number: 752376), Civic Earth Limited (registered number 14897633), Civic Heritage Limited (registered number 15913145), Civic MEP Limited (registered number 09245443), Civic Rail Limited (registered number 15913179) and New Practice Limited (registered number SC623648). All are private limited companies registered in England at Carvers Warehouse, 77 Dale Street, Manchester M1 2HB. Except for Civic Plus Limited (registered number: 752376), which is registered in the Republic of Ireland at 36 Lad Lane, Baggot Street Lower, Dublin D02 T208 and New Practice Limited, which is registered in Scotland at 35 Virginia Street, Glasgow, G1 1TN.

### 2. Agreement

The term *Agreement* refers to the combination of (i) any Fee Proposal delivered to the Client and (ii) these Terms and Conditions ("T&Cs"), which together form a binding contract between the Client and the specific company within the Civic group of companies that is named in the Fee Proposal ("the Company").

### 3. Client

The term *Client* shall refer to the person, company, authority or firm detailed as addressee in the Fee Proposal and to whom the Fee Proposal is prepared for.

### 4. Services

The term *Services* shall refer to the scope of works to be performed by the Company as specified in the Fee Proposal.

### 5. Sub-Consultants

The term Sub-Consultant shall refer to a person, company or firm directly appointed by the Company to perform the consultancy Services in whole or in part.

### 6. VAT

All fees and expenses quoted are exclusive of Value Added Tax at the prevailing rate.

### 7. Expenses and Disbursements

Unless otherwise stated in the Fee Proposal, fees exclude incidental expenses such as printing, accommodation, and travel costs. If incurred, these expenses will be charged at cost and will be subject to the Company's conditions of payment hereunder. Disbursements shall be subject to a Management Fee as detailed hereunder.

### 8. Form of Appointment

Where the Client proposes to replace this Agreement with a bespoke contract, reasonable amendments shall be accommodated to remove or reduce risk to the Company's professional indemnity insurance cover.

This Agreement is applicable and remains in force until such time as such bespoke appointment agreement is negotiated and fully executed. Instruction by the Client to begin or continue performance of the Services shall be deemed as acceptance of this Agreement.

The Client shall be deemed to have knowledge of terms and conditions of the ACE Professional Services Agreement 2017. The Company shall carry out the Services in accordance with the terms and conditions of the ACE Professional Services Agreement 2017. To the extent there is any inconsistency, ambiguity or discrepancy between these T&Cs and the ACE Professional Services Agreement 2017, these T&Cs shall take precedence.

### 9. Management Fee

Disbursements shall be billed at cost. Sub-Consultants' fees shall be billed and administered by the Company with a percentage handling charge of 15% added as a management fee. This will be charged in addition to the Sub-Consultants' fees and subject to the Company's conditions of payment hereunder. The Company reserves the right to render interim invoices to recharge disbursements or Sub-Consultant fees.

### 10. Archived Materials

The Company may archive project materials (including drawings) for up to 12 years post practical completion. Release of archived materials shall incur a basic charge of £350 (+VAT). Drawings in PDF format shall incur a charge of £25 (+VAT). Drawings may not accurately reflect what has been built and there may be subsequent alteration of which we have no knowledge. In providing archived materials (including drawings) we assume no legal duty to you and such archived materials shall not be shared with any third parties unless agreed with the Company.

### 11. Letters of Reliance & Collateral Warranties

Provision of Letters of Reliance and/or Collateral Warranties may be provided at the discretion of the Company and shall incur a charge appropriate to size, scale and nature of the relevant project. Payment shall be subject to the Company's conditions of payment. A person who is not a party to this Agreement may not enforce any terms of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

### 12. Fee Payment Procedures

Procedures will be in accordance with the Housing Grants, Construction and Regeneration Act 1996. Invoices will be submitted monthly generally in accordance with any agreed drawdown schedule. The Payment Due Date shall be the date of the payment notice. The Final Date for Payment shall be 28 days from the Payment Due Date. Interest will accrue from the day after the Final Date for Payment and be charged

at 8% over the Bank of England base rate. Where a sum due is not paid in full by the Final Date for Payment the Company reserves the right to provide the Client seven days' notice of its intention to suspend work and may subsequently redeploy the project team. In the event of suspension of work, the Company may require up to one month after payment is made to mobilise a team to recommence work.

### 13. Payment on Suspension or Termination

If the performance of the Services is suspended or terminated, the Company will issue an invoice in accordance with the Agreement for, and will be entitled to, payment of the fee due at the date of suspension or termination, along with payment of any licence fees due, and payment for any loss or damage as a result of the suspension or termination, save where the Client gives notice of suspension or termination by reason of any material breach of this Agreement by the Company. Any costs for the resumption of a project after its suspension will be payable upon the date of commencement.

### 14. Variations

Fees outlined in the Fee Proposal may be based on assumptions on the scope, services, programme, and construction value at the time of issue of the proposal. Variations to the project affecting the brief, budget and/or programme will only be actioned once a written instruction is received from the Client including confirmation of additional fees as appropriate. The Company does not accept any responsibility for delays in the programme or additional costs arising out of changes instructed by the Client. The terms under Clause 8 of the ACE Professional Services Agreement 2017 shall apply to these additional charges.

### 15. Copyright

All intellectual property rights (including Copyright) shall remain vested with the Company. If required and subject to payment of all fees due, the Company hereby grant the Client a royalty-free licence to use and reproduce materials containing such copyright provided the Company shall not be liable for any use for any purpose other than that for which it was originally prepared.

### 16. Photography and Publicity

The Company shall have the right to publish photographs for the Project unless explicitly restricted by the Client. The Client shall give reasonable access to the Project for this purpose prior to and for 2 years after practical completion of the construction works. Consent of the Client will be obtained, which shall not unreasonably withheld or delayed, before publication of any other information about the Project, unless reasonably necessary to performance of the Services.

### 17. Confidentiality

The Company shall not disclose Confidential Information unless disclosure is necessary for the proper performance of the Services, it is in the public domain, or disclosure is required by law or disclosure is to the Company's insurers or professional advisers.

### 18. Assignment and Novation

Assignment or novation shall be limited to two occasions without consent, provided that notice of any such assignment/novation is immediately given in writing to the Company. Further assignments may only be made with the prior written consent of the Company.

### 19. Insurance

The Company shall maintain Professional Indemnity Insurance cover at a level agreed with the Client and set out in the Fee Proposal. If no amount is detailed, cover shall be the default position of Part I A or Part I B: Contract Details the ACE Professional Services Agreement 2017.

### 20. Limit of Liability

The Company shall carry out the Services, its duties and obligations exercising reasonable skill, care and diligence in conformity with the normal standards of its profession and shall be liable to the Client only if found to be negligent in such provision. Such liability will be limited to the value of Professional Indemnity Insurance cover made available for the project. The liability of the Company shall not exceed such sum as is just and equitable having regard to the extent of its responsibility. The terms under Clause 10.2 of the ACE Professional Services Agreement 2017 shall apply unless otherwise agreed. The Company's liability for Asbestos, Contamination, Pollution, Fire Safety or Basement related claims shall be the lesser of the professional indemnity provided under clause 18 or £1,000,000 (one million pounds) in the aggregate.

The Company will not be responsible or liable, directly or indirectly, for any Liquidated, Ascertained or Consequential Damages or other sanctions in connection with Services undertaken for the Client.

No right of set-off shall exist in respect of any claims by the Client against the Company and the Client shall not withhold all or any part of any sum which has become due for payment under the Agreement by way of set-off, contra-charge, counterclaim, discount, abatement or otherwise.

### 21. Dispute Resolution

Either the Company or the Client may exercise its right to take any legal disputes to Adjudication in accordance with the Housing Grants, Construction and Regeneration Act 1996 at any time. If the parties do not agree on the choice of Adjudicator then a suitable person shall be nominated by the RICS. This agreement is governed by and construed in accordance with English law. Both parties hereby submit to the exclusive jurisdiction of the English Courts.

## **22. Third Party Rights**

This agreement confers no benefits on or rights to enforce it on persons not a party to it.

## **23. Other Fees**

Any additional services agreed, instructed or required under Clause 8 of the ACE Professional Services Agreement 2017 (or otherwise) will be charged on an hourly basis at the rates outlined in the Fee Proposal.

## 24. Ground Investigation Works

The following Supplementary Conditions apply to all ground investigation works and such work shall be deemed included within the definition of the Services carried out by the Company unless specifically amended in writing within the corresponding Fee Proposal (prior to commencement of such Services). These Supplementary Conditions should be read in conjunction with and shall form part of the Agreement. Unless defined in these Supplementary Conditions, terms shall have the meaning given to them in the Fee Proposal and/or T&Cs.

## 25. Sub-Contractors

The term Sub-Contractor shall refer to any company or person employed or sub-contracted to undertake ground investigation works and other works for the Company in whole or in part.

The Company at its sole discretion, to which the Client agrees, may select the Sub-contractors required to complete the Services.

## 26. Site Access

It is a condition of the Agreement that the work can be completed in a continuous manner without interruption and in one visit to the site unless otherwise agreed in writing within the Fee Proposal. Interruptions or delays due to instructions or lack of instructions from the Client shall be chargeable at the hourly rates included within the Fee Proposal.

Where access to the site is arranged but is not available at the confirmed time and date, resulting in an abortive visit, or if the Company finds that access is restricted to some parts of the site and that a return visit is required, including for adverse weather conditions, the Company reserves the right to charge for additional time spent and expenses, including third party costs, incurred. The Company shall have no liability whatsoever should any interruptions or delays (including without limitation, delays in access to the site) arise as a result of the acts and/or omissions of the Client and/or any third party.

The site and any existing structures and/or work that has been prepared by the Client or others acting on its behalf shall be made available to the Company in good time, prior to commencement of the Services and in accordance with the Programme. At each exploratory location a firm level clear and unobstructed accessway of 7 metres by 3.5m and clear level access suitable for a 4 wheel drive Land Rover type vehicle or backhoe mechanical excavator shall be provided. The Company cannot be held responsible for any damage necessarily caused in gaining access to and working at any exploratory hole location and the Client shall indemnify the Company in respect thereof.

No such prior inspection shall constitute the Company's approval or acceptance of ground or site conditions and/or the nature of the existing structures and/or work, and the Company shall not be responsible or liable for any defects in or damage to the Services and/or any delay caused by site conditions and/or the nature of the existing structures and/or work.

## 27. Third Party Materials Plant & Documents

The Company shall have no liability in connection with any materials, plant or documents (whether drawings, calculations, specifications or any other documents) provided and/or any design carried out or completed, by the Client and/or any third party.

## 28. Property Damage & Hidden Services

Should the Company be required to carry out Services against, around or over any other structures, the Company will not be liable for any damage to such items caused by any reasonable pressures exerted on them by the Company in providing the Services.

The Client will be responsible for and indemnify the Company against all and any claims arising out of damage to underground cables, pipes or other services except those for which positions have been clearly and correctly marked on the ground by the Client or its appointed agent, or indicated to the Company in an accurate scaled plan prior to commencement that is dated within 6 months of the commencement of the site investigation or other works.

The Company shall not be responsible for and shall be indemnified in respect of any damage, injury or loss arising from any action or omission, whether negligent or otherwise of the Client, any contractors or their employees and the Client shall indemnify the Company against any loss or damage or expense suffered by us as a result of any dangerous defect in the site which has not been disclosed in writing to the Company beforehand.

## 29. Site Permissions

The use and occupation of the site required for carrying out the Services shall be the responsibility of the Client. The Client will obtain all licences, permits, sanctions or authorities required by law or otherwise for the execution of the Agreement, as well as any wayleaves, rights of way, permissions or access as may be necessary. All taxes, duties, imposts or other charges howsoever arising from the Agreement shall be borne by the Client. The Company will not be party to a licence issued by the owner of any site on which it is procured by the Client to undertake works; in such circumstances the Client shall be the signatory to the licence agreement.

The Client will indemnify the Company, its employees and Sub-contractors from and against any claim for trespass or damage arising from access onto any site or any land crossed or otherwise traversed to gain access to the site.

## 30. Site Management & Welfare

The Client shall arrange any security, temporary works, traffic control, lighting, protection of equipment etc. as may be necessary to carry out the Services, unless otherwise stated in the Fee Proposal.

Unless allowed for by the Company in the Fee Proposal, the Client shall provide welfare facilities for the use of the Company, its employees and Sub-Contractors.

## 31. Health & Safety

The Company will provide its standard format risk assessment and method statement (RAMS) to the Client, and where appropriate to the site owner and/or tenant(s). Should the Client, or other third party, require alternative or additional Health and Safety documentation, the Company reserves the right to levy additional fees. Unless specifically set out in the Fee Proposal, the Company shall not take the role of Principal Contractor under the Construction (Design and Management) Regulations 2015 or any subsequent revisions.

All site locations are deemed to be 'Green' as per the British Drilling Association (BDA) guidelines and standard PPE will be appropriate for the works, unless otherwise stated in the Fee Proposal.

Where the conditions encountered pose a risk to persons, property or the environment, the Company will undertake such measures as are required to render the site safe and protect staff and third parties, and the Client shall reimburse the Company for all reasonable fees, costs and expenses incurred.

## 32. Fieldworks

Access to any instrumentation installed in exploratory hole locations shall remain readily accessible for monitoring purposes after completion of any fieldworks.

Where exploratory holes are required to be backfilled, then unless specifically agreed in writing, they will be backfilled with the excavated material and compacted as far as possible once only and the surplus materials will be mounded above the backfilled excavation to allow for settlement, or otherwise left on site. No responsibility can be accepted for claims arising out of the position or backfilling of any completed exploratory hole and the Client shall indemnify the Company in respect thereof. If monitoring instrumentation is installed in exploratory hole locations, it will remain in situ. If there is a need to remove the instrumentation this will be subject to additional costs payable by the Client.

Should surplus material be required to be removed from site and placed in skips it is assumed that these will be provided by the Client. Should the Company be required to place skips on site to fulfil this obligation, the Company shall be entitled to charge for this requirement at cost + 20%.

The Agreement does not include for surveying and levelling exploratory holes or for setting out other than by taping or pacing from prominent features on site. Where accurate surveying and/or levelling are required the Company will require specialist surveyors at a cost to be agreed with the Client before commencement of the additional work. Where handheld location and level devices are used, these will be charged at rates set out in the Fee Proposal, or shall be agreed in writing at a later date.

## 33. Delays

Further to Clause 19, if the Company incurs delays or costs for reasons beyond its control, it reserves the right to levy reasonable charges payable by the Client for loss of productive time and Sub-Contractor costs.

## 34. Reports

The report on the investigation or the works will be issued in electronic form. If specifically requested by the Client, up to two copies of any report will be supplied. Additional copies will be subject to a charge to cover costs of production. Any changes to the report made at the request of the Client will be chargeable at costs to be advised by the Company.

## 35. Construction Industry Scheme

The Services provided by the Company do not fall under the Construction Industry Scheme (CIS) for tax purposes, and hence the Client will not make deductions in respect of CIS from payments of the Company's invoices or Applications for Payment. No deductions in respect of retention amounts will be made by the Client against the Company's invoices or Applications for Payment.

## 36. Contamination & Pollution

The Client recognises that ground investigation is an uncertain activity, and that physical or chemical (contamination) issues occur that are unexpected, hence the scope and therefore cost of the investigation may need to change. The Company shall not accept responsibility for any subsidence or any other damage to the site or works caused by events or circumstances that are beyond the Company's control.

In the event of ground conditions, including contamination, being encountered requiring a reclassification or reassessment of the site, which in the opinion of the Company were not reasonably foreseeable, the Company will obtain permission from the Client to vary the scope of the investigation, where possible and practicable. The Company shall be entitled to additional payment in respect of any additional and/or varied services carried out and/or delays due to unforeseen ground conditions, and to a fair and reasonable adjustment to the Programme.

## 37. Sample Storage

All samples from the Agreement will be disposed of within two weeks of submission of a written report, unless otherwise instructed. A reasonable charge shall be agreed to cover the cost of storage.