

**ABRICON LIMITED**  
**STANDARD CONDITIONS OF ENGAGEMENT**

**1. CONDITIONS OF ENGAGEMENT**

In the Conditions the following expression shall have the meanings hereby assigned to them except where the context otherwise requires:

Client means the person, firm or company used in the Letter of Offer commissioning the Services to be provided by Abricon Limited in accordance with these conditions.

Abricon Limited is a UK registered Company (registered number 6058530), hereinafter referred to as 'Abricon'.

Letter of Offer, Tender, Proposal means the letter, tender or proposal accompanying these Conditions addressed to the Client.

**2. SCOPE OF SERVICES**

The Scope of Services to be performed by Abricon shall be as specified in Schedule 1 attached hereto ("The Services").

**3. COMPENSATION AND PAYMENT**

Compensation for the provision of the Services by Abricon shall be specified in Schedule 2 attached hereto. Unless otherwise indicated in Schedule 2, Abricon shall invoice the Client monthly for the Services performed during the period and for reimbursable costs and charges incurred during that period in performance of the Services, and the Client shall make payment of the amount of the invoice within thirty (30) days after the date of the invoice.

Any amount not paid within thirty (30) days after the date of the invoice shall attract interest from the due date until receipt of payment by Abricon at 4% above the base lending rate of Abricon's designated bank. Compensation shall be exclusive of any value added or equivalent tax, and any such tax which is payable on the provision of the Services to the Client shall be paid by the Client as part of the invoiced sum and invoices will separately identify this tax.

**4. CHANGES**

4.1 Scope – The Services described in Schedule 1 are based on facts known at the time of preparation of Schedule 1, and include information supplied by the Client. Subsequent information may indicate that the Scope of Services must be redefined. In this case, Abricon will promptly provide the Client with an amendment to the scope of Services and this amended scope will be deemed to have been approved by the Client if not objected to within fifteen (15) days of receipt by the Client. Additionally, the Client may by written instruction make changes to Abricon's Scope of Services. In any of the above circumstances, Abricon's compensation shall be adjusted accordingly and thereafter Abricon shall commence performance of the additional or amended services.

4.2 Programme – The Client shall upon the request of Abricon grant an extension to any planned programme for performance of the Services and, if appropriate, an adjustment to Abricon's compensation, if Abricon has been delayed or impeded in the performance of the Services by (i) a Change Order, (ii) any delay caused by the Client, (iii) an event of Force Majeure (being any event beyond the control of Abricon), (iv) a suspension for any reason, (v) any change of Law, (vi) any other reason mutually agreed by the parties.

**5. WARRANTY AND LIABILITY**

5.1 Abricon warrants that the Services shall be performed with reasonable skill, care and diligence in accordance with accepted professional engineering and consulting standards and practices existing at the date of performance of the Services. Abricon's liability arising out of the performance of the Services for any breach of this warranty shall be limited to (i) re-performance of any services to correct the breach and (ii) the direct consequences of such breach where such breach was reported to Abricon in writing within one year of the date of performance of the relevant Services. However, Abricon's maximum liability arising out of or related to the Services shall be limited to the limits of professional indemnity insurance coverage specified herein.

5.2 Abricon shall not be responsible for the acts or omissions of the Client or of the Client's contractor or any of the contractor's agents, employees or sub-contractors: nor for the acts or omissions of material or equipment manufacturers or suppliers: nor for the acts or omission of any other engineer or consultant.

5.3 No Collateral Warranty will be accepted by Abricon unless the Client has advised, prior to the commencement of the Services, that a warranty will be required. Sufficient time shall be allowed, by the Client, for negotiation of the Warranty.

5.4 All warranties, other than the above, whether express or implied, including without limitation any warranties of merchantability or fitness for purpose, are expressly excluded.

5.5 Abricon shall defend, indemnify and hold harmless the Client Group (as defined below) from and against all claims, demands, or causes of action for damage to or loss of any equipment or property of Abricon, its vendors, sub-contractors or sub-consultants (the Contractor Group), for injury to or death of any employees of the Contractor Group arising out of the performance of the Services, regardless of whether such loss or damage shall result in whole or in part from the Client Group.

5.6 The Client shall defend, indemnify and hold harmless the Contractor Group from and against all claims, demands, or causes of action for damage to or loss of any equipment or property of the Client, the Client's customer(s), or their respective contractors, consultants or vendors (other than Abricon) ("the Client Group") or for injury to or death of any employees of the Client Group arising out of the performance of the Services regardless of whether such loss or damage shall result in whole or in part from the Contractor Group.

5.7 Whether due to delay, breach of warranty, negligence, or any other causes, Abricon shall not be liable for any special indirect or consequential damages of any nature, or for Client's loss of actual or anticipated profits or revenue, loss by reason of shutdown, non-operation or increased expenses of manufacturing or operation.

**6. INSURANCE**

Abricon shall at its own cost and expense maintain employers' liability, motor vehicle, public liability and professional indemnity insurance coverage in amounts in accordance with legal requirements and Abricon's own business requirements. For the purposes of the warranty and liability provisions above, Abricon's professional indemnity insurance shall be maintained in the sum of one million pounds sterling (£1 million) unless amended in Schedule 3.

**7. PROJECT INFORMATION**

The Client shall make available to Abricon all data on project scope, schedule, cost and quality requirements and other information reasonably necessary to allow Abricon to undertake and perform the Services and Abricon shall be entitled to rely upon all such information made available by the Client.

**8. INTELLECTUAL PROPERTY RIGHTS**

Copyright of all drawings, reports and other documents provided by Abricon in connection with the Services shall remain vested in Abricon, but the Client shall have a licence to copy and use such drawings and other documents and to reproduce the designs contained in them for any purpose related to the project in relation to which the Services are provided. Abricon shall not be liable for any use by the Client of any of the drawings or documents for any purpose other than that for which the same were prepared and provided by Abricon.

**9. TERMINATION/SUSPENSION**

The Client may terminate the Services if Abricon is in substantial breach of its obligations herein and Abricon has not commenced to remedy that breach within thirty (30) days after receipt of a written notice to that effect from the Client. Abricon may suspend or terminate performance of the services if any compensation payable to Abricon has been outstanding for more than sixty (60) days from the date of Abricon's relevant invoice. In the event of termination of the Services, the Client shall make payments to Abricon for (i) all invoice and interest amounts outstanding at date of termination (ii) all Services completed up to the time of termination and (iii) all expenses of termination by Abricon in connection with performance of the Services.

**10. GOVERNING LAW**

The provision of the Services shall be governed by and construed in accordance with English law.

**11. CHANGE IN LAW**

Should the applicable laws, rules or regulations of England (or the place where the work is being performed or for where the project is being designed if other than England) be changed or enacted after submission of Abricon's tender for the Services in such a manner as to cause increase in cost to Abricon or to delay the planned programme, compensation and programme shall be adjusted accordingly.

**12. NOTICES**

Unless otherwise agreed, notices shall be served on the registered office of the parties. Notices may be served personally, by pre-paid mail or by facsimile. Notices shall be deemed served immediately if served personally or by facsimile or seven days from the date of the notice if served by pre-paid mail. Notice of termination may not be served by facsimile.

**13. SPECIAL TERMS**

Any special terms shall be set out in Schedule 3 attached hereto. In the event of conflict, such special terms shall take precedence over these standard terms.

**14. ENTIRE AGREEMENT**

These terms and the Schedules attached hereto constitute the entire agreement between the parties and no changes, modification or amendments to these terms shall be valid unless agreed to by the parties in writing and signed by their authorised officers.

**15. VALIDITY OF OFFER**

Unless otherwise stated the Letter of Offer shall only be valid for a period of 60 days from the date of the Letter. A written order is required prior to the commencement of the Services.

## **SCHEDULES TO CONDITIONS OF ENGAGEMENT**

### **Schedule 1: Services**

Services shall be as defined in the attached Abricon proposal letter.

### **Schedule 2: Compensation and Payment**

As defined in the aforementioned proposal.

Unless set out in the proposal all services shall be provided in accordance with the attached standard schedule of professional fees.

Where services are undertaken outside the original brief and proposal, those services shall be provided in accordance with the attached standard schedule of professional fees.

### **Schedule 3: Special Terms**

Professional Indemnity Insurance shall be maintained at £ 1,000,000 (one million pounds)

Abricon shall accept no liability for the costs of damage and repair of underground services unless such services are clearly marked at the site and are shown to our representative on-site, in advance of starting the intrusive exploration works.