

**LUTRA CONSULTING LIMITED**  
**GENERAL CONDITIONS OF CONTRACT FOR SUPPLY OF SERVICES**

**1. DEFINITION AND INTERPRETATION**

Lutra: means Lutra Consulting Limited, registered in England and Wales, company No. 09460334, with registered office at 23 Chestnut Close, Burgess Hill, West Sussex, RH15 8HN.

The Contract: means the offer of a consultancy service by Lutra in the form of the Proposal and these conditions and acceptance of the offer by the Client;

The Services: means the services to be provided by Lutra either directly or through others in accordance with the Proposal;

The Client: means the Person, Company or Partnership stated in the Lutra Proposal.

The Proposal: means the proposal attached to these General Conditions of Contract from Lutra to the Client.

Unless otherwise expressly agreed in writing by Lutra every proposal of work subsequent to the Proposal shall be subject to these conditions.

**2. ACCEPTANCE OF ORDERS FOR SERVICES**

(1) The terms of the Proposal are open for acceptance by the Client within the period stated therein or, if none is stated, within 90 days from the date of the Proposal unless withdrawn earlier by notice to the Client by Lutra. Acceptance of the terms of the Proposal by the Client in writing shall constitute an acceptance of Lutra's offer embodied in the Proposal and these conditions.

(2) Any commitments or representations whether prior to or subsequent to the Proposal made by Lutra's agents, representatives or employees are binding only when confirmed in writing by Lutra.

**3. PERSONNEL**

(1) The Services shall be carried out by the personnel specified in the Proposal provided that Lutra may make such reasonable substitution as may be necessary or appropriate to ensure the efficient performance of the Services. Should it become necessary to replace any person specified by name in the Proposal, Lutra shall forthwith arrange for such replacement with a person of comparable experience.

(2) The Client agrees not to hire or employ itself, either directly or indirectly, any of Lutra's employees or associates directly involved in the Contract on its own behalf independently of Lutra during the full duration of the Services and for 12 months thereafter for any task or Contract which would represent a conflict of interest in their involvement in the Contract and/or which would represent a competitive element to Lutra's interests.

**4. WORK TO BE UNDERTAKEN BY Lutra**

(1) If the Proposal and these conditions are accepted by the Client, Lutra shall undertake the Services in accordance with the timetable, if any, set out in the Proposal.

(2) The compliance with any relevant rules and regulations and the obtaining of any necessary licences, permits, consents, approvals or other matters of a like nature necessary to enable Lutra to provide the Services to the Client shall be the responsibility of the Client.

**5. PATENTS AND DESIGN**

(1) Except as provided in the Proposal, neither party grants to the other any rights or licence to practice or use any invention protected by patent, or any trademark or registered design subsisting prior to the Contract, and vested in that party.

(2) Lutra and the Client shall jointly own any inventions or designs arising out of the Services and the intellectual property rights thereto and, subject to any prior intellectual property rights or any specific conditions of the Contract which shall include licensing arrangements, each party shall be free to exploit such inventions and designs independently of the other party.

**6. OWNERSHIP OF DOCUMENTS AND COPYRIGHT**

(1) The copyright in all drawings, reports, specifications, calculations, and other similar documents provided by either party in connection with the Services shall remain vested in that party.

(2) Lutra may with the written consent of the Client (such consent not to be unreasonably withheld or delayed) publish alone or in conjunction with any other person any articles, photographs or other illustrations relating to the Services.

**7. CONFIDENTIALITY**

(1) "Confidential Information" means all records, reports, data and other information and know-how belonging to either party which are disclosed to the other as a result of the Contract other than that which is already in either's possession or in the public domain.

(2) Neither party shall use any Confidential Information for any purpose other than assisting in the performance of the Services or disclose any Confidential Information without the written consent of the other to any person other than to employees to whom disclosure is necessary to enable performance of the Services (and each party shall ensure that such employees keep the Confidential Information secret) or to comply with any court order or lawful instruction, notice, order etc of any competent regulatory authority.

**8. WARRANTY**

(1) Lutra warrants that the Services will be performed diligently and in accordance with current professional standards and sound engineering practice. The Client shall report in writing to Lutra any breach of this warranty within fourteen days of discovering such breach.

(2) This warranty shall be valid during the performance of this contract and for six months after completion and thereafter the Client shall have no remedy whatsoever against Lutra whether in respect of this warranty or negligence, error or omission subject to condition 9 below.

**9. INDEMNITY and INSURANCE**

(1) Staff and associates/consultants working for Lutra will each carry individual insurance cover, although this will not abrogate the client's responsibilities in respect of ill health, injury or death sustained during the contract by a Lutra representative for reasons outside their control.

**10. LIABILITY OF Lutra**

(1) Lutra shall not be liable for any indirect or consequential losses, loss of contracts, damages or profits or any costs incidental thereto, arising from provision of the Services, including without limitation any delays, loss of use or loss of profits or products or to third parties.

(2) The liability of Lutra shall be limited to the re-performance of the Services to the extent necessary to remedy any faults provided that the Client had given written notice of the faults as provided at 8(1) and 8(2) above.

(3) Lutra accepts no liability for failure to attain any potential performance figures quoted by Lutra unless such figures are set out in full in the Proposal and specifically guaranteed therein.

## **11. INFORMATION AND FACILITIES TO BE SUPPLIED TO Lutra**

(1) The Client shall supply Lutra, without charge and within a reasonable time, all relevant data and information in the possession of the Client and such assistance as shall reasonably be required by Lutra in the performance of the Services and the Client shall indemnify Lutra for damages claims or liabilities which result from inaccurate or incomplete documents or information provided by the Client. When required to give a decision on any matters properly referred to it by Lutra, the Client shall notify Lutra of its decision in such reasonable time as not to delay or disrupt the performance of the Services.

(2) The Client shall facilitate the timely granting to Lutra and any of its personnel in respect of the country where the Services are to be carried out any necessary visas, licences, permits and customs clearance assistance, and safe and unobstructed access to sites.

(3) To the extent that it is agreed that the Client shall arrange the provision of services by its own personnel or by others to assist Lutra, then the Client shall take all reasonable actions to ensure the timely and efficient performance of the services made available to Lutra. If the anticipated services are not forthcoming or in the event of delay for whatever cause, the Client and Lutra shall agree upon remedial action and on the remuneration payable to Lutra. The Client shall indemnify and hold Lutra harmless against any losses or claims or demands resulting from the failure of others to provide services to be arranged by the Client, properly and/or within the time periods specified by Lutra.

## **12. PAYMENT**

(1) Lutra shall invoice the Client in respect of the Services on completion, unless the Proposal provides for staged payment, in which case Lutra shall issue invoices in accordance therewith.

(2) The Client shall pay Lutra within thirty days of the invoice date. Time for payment shall be of the essence. Interest shall be payable at the rate of eight per cent p.a. above Bank of England base rate on all overdue payments together with statutory compensation under late payment legislation.

(3) The Client shall reimburse to Lutra at cost to Lutra all reasonable expenses properly incurred in the course of the Services.

(4) Unless otherwise expressly stated in the Proposal all sums due from the Client to Lutra are exclusive of VAT and all local taxes and fees (which shall be payable by the Client) and payable without deduction, set-off or counterclaim.

(5) Where the Proposal includes a charge in respect of a number of man days unless otherwise stated in the Proposal a man day shall be defined as 8 hours (including travelling) and Lutra reserves the right to make a further charge or refund if the actual number of hours is substantially different.

(6) If the Client has reasonable cause to dispute or call into question any portion of an invoice presented by Lutra, the Client shall notify Lutra accordingly, in writing (which shall be deemed to include facsimile or telex transmission) within 14 days of presentation of the invoice in question. Lutra and the Client shall make all endeavours to resolve any such dispute or question related to an invoice or portion thereof in the most reasonable and expeditious manner. The Client shall not be entitled to delay payment of any portion of an invoice which is not in dispute or question on the grounds that a portion of the same invoice is in dispute or question.

(7) Lutra reserves the right at any time:

(a) to require the Client to lodge a cash deposit, letter of credit or other form of security as required by Lutra for the payment of all amounts due or to become due; or

(b) to require the Client in some other manner to prove to the satisfaction of Lutra that it will fulfil all its obligations and make payment on the due date(s).

Should the Client fail or refuse to provide such security or proof within seven (7) days of such request, Lutra reserves the right without notice and without incurring liability of any kind to suspend performance of the services or to terminate the contract and receive any payment due in accordance with clause 13.2 hereof and to recover from the Client any loss suffered by Lutra by reason of such suspension or termination.

## **13. TERMINATION**

(1) Either party shall have the right to terminate the Contract upon giving seven days written notice to the other if any of the following occurs:

(a) fails to make any payment due under the Contract or commits any breach of the Contract which (if capable of remedy) it fails to remedy within fourteen days of receiving notice to do so by the other party;

(b) makes any composition with its creditors other than for the purposes of reconstruction or amalgamation or (if a company) has a receiver or liquidator appointed or (if an individual or partnership) becomes bankrupt.

(2) Termination of the Contract shall be without prejudice to the accrued rights of either party and in particular Lutra shall be entitled to retain all payments previously received and to receive payment in respect of work carried out under the Contract for which no payment has been received, including as yet invoiced fees and expenses including, if applicable, premature demobilisation expenses.

## **14. SUSPENSION OF THE SERVICES ON FORCE MAJEURE**

Neither party shall be considered in default in the performance of its obligations hereunder if that party is wholly or in part unable to carry out any obligations (except obligations to pay) under the Contract due to any cause beyond its control and such party shall give to the other party prompt notice thereof with full details whereupon such obligations will be suspended so far as it is affected by such cause during the continuance of such cause provided the party affected shall take all reasonable steps to eliminate the cause and resume performance as promptly as practicable.

## **15. DISPUTES**

(1) If any dispute arises out of the Contract, the parties will attempt to settle it by negotiation or by mediation in accordance with the Centre for Dispute Resolution's (CEDR) Model Mediation Procedure.

(2) In the event that the Services fall within the scope of the Construction Act 1996, either party may refer any dispute or difference to adjudication under the procedures set out in the ICE Adjudication Procedure current at the time the dispute arises.

(3) In the event that such dispute is not resolved by such means within sixty (60) days, either party may finally refer it for arbitration in accordance with the provisions of the Arbitration Act 1996 or any statutory modification thereof for the time being in force to such professional Institute that is appropriate to the nature of the dispute.

## **16. ASSIGNMENT AND LAW**

(1) (a) The Client shall not assign any part of the Contract or offer collateral warranties in Lutra's name without the prior written consent of Lutra.

(b) Lutra shall be entitled without prior consent to assign this contract to its subsidiaries, successors in title and assigns from time to time in relation to the whole or any part of its business

(2) The Contract shall be subject to English law and the jurisdiction of the High Court in London

(3) Unless expressly stated to the contrary, no provision of the Contract is intended to or creates any right or benefit enforceable against Lutra under the Contracts (Rights of Third Parties) Act 1999.