

Quote

Vistry Partnerships North West
Innovation House, Kelburn Court,
Birchwood
Warrington
WA3 6UT

Date
Your Reference
Our Reference
Contact
Account Handler

20/04/22
Peter Bowen
1/0015-065.008
Peter Bowen
Rob Horseman

Description: Lickers Lane, Hainsead - BRE 365 Soakaway testing

Details	Qty	Unit	Amount
<u>Lickers Lane, Hainsead - BRE 365 Soakaway testing</u>			
BRE 365 Soakaways Costs allow for 2 No days BRE 365 soakaway testing utilising on-site excavator Costs include for E3P Engineer use of 1000 litre 4x4 mounted bowser, standpipe and equipment.	1.00	£1,500.00	£1,500.00
2 No Days Excavator Hire Excavator costs inclusive of driver and fuel to excavate soakaway pits.	1.00	£1,650.00	£1,650.00

Net	£3,150.00
VAT	£630.00
Total	£3,780.00

Terms and Conditions

Payment terms Nett 30 days. Carriage and VAT extras applicable. Author corrections extra subject to requirements.
All figures shown are based on our current understanding of the complexity of the job. A copy of our Terms & Conditions is available on request. E&OE.





TERMS OF BUSINESS ("Terms")

DEFINITIONS

"Agreement" the Proposal together with these Terms

"Company" Environmental Engineering Partnership Limited (trading as "e3p") its employees, agents and consultants.

"Client" any natural person(s), corporate entity or group commissioning the Services.

"Project" the extent of Services commissioned by the Client in respect of the Site.

"Proposal" the documents and written communications outlining the Company's proposed Services to be performed for the Client including but not limited to any fee estimate, response to tender, scoping document or options appraisal with all attachments and amendments generated throughout the duration of the Project by the Company in respect of the provision of Services.

"Services" those specific tasks undertaken by the Company and detailed within the Proposal; and any additional tasks subsequently agreed between the Company and the Client.

"Site" the property, land or area on which the Services are to be provided.

In these Terms, unless the context requires otherwise any references to the singular includes the plural (and vice versa).

These Terms may be varied or excluded (in whole or in part) by the Proposal or by subsequent express agreement in writing signed on behalf of the Company and the Client but not otherwise. Any Proposal not resulting in Appointment in accordance with Clause 1 shall unless stated therein only remain valid for 30 days from the date of the Proposal.

The Company will only provide the Services in accordance with these Terms which will be deemed to have been accepted by the Client upon instructing the Company to provide the Services. The Company hereby expressly excludes any terms and conditions of the client.

1. Appointment

1.1. The Appointment of the Company shall commence from the date of acceptance by the Company of a written instruction by the Client to perform the Services; or at the



Company's complete discretion from the date of acceptance of oral instructions by the Client; or from that time when the Company has begun to perform for the Client any of the Services in respect of the Project, whichever is the earlier.

2. The Services

- 2.1. The Company shall provide the Services to the Client in accordance with these Terms.
- 2.2. While time estimates are given in good faith, and the Company shall make reasonable endeavours to supply any results or information on any specific dates agreed in the Proposal, time for delivery of the Services shall not be of the essence.
- 2.3. The Services will be performed for the exclusive use of the Client, unless expressly provided otherwise in the Proposal.
- 2.4. The Company intends to employ methods, procedures, techniques, personnel and sources of information set out in the Proposal but reserves the right to vary these as necessary or desirable in order to achieve the aims of the Project.
- 2.5. Nothing in the Agreement shall create any obligation on the part of the Company to undertake any responsibilities the client may have by law which requires the reporting or notification to responsible governmental authorities or other third parties of any discharge or release of hazardous substances or any other environmental condition at the Site. However the Company expressly retains the right to undertake such reporting or notification where the Company deem such reporting or notification necessary to ensure the Company's compliance with laws or to prevent harm to health, the environment or property.
- 2.6. In the event that samples, drilling residues, equipment or other materials generated or used in the course of the performance of Services contain or may contain hazardous substances, the Company shall after completion of any testing or other related portions of the Services return such samples or other contaminated materials to the Client or on prior written request by the Client and using documentation signed by the Client as generator have such samples or contaminated materials transported to an appropriately licensed location selected by the Client for final disposal.

3. Fees and Payment

- 3.1. The Client agrees that the Services will be carried out and charged on the basis of time spent unless a fixed budget is agreed in the Proposal or otherwise in writing. Any time charge contained or referred to in the Proposal shall be for guidance only and relates to the relevant charge at the date of the Proposal only. Invoices will be issued using the fee rates and price schedule in force at the time work is carried out unless otherwise agreed.
- 3.2. [Unless stipulated to the contrary in the Proposal a 10% charge may be made on all disbursements made by the Company associated with the Project in order to cover administrative costs. Disbursements include but are not limited to subcontractors, freight and packing charges, out of pocket expenses, travel and accommodation



away from the normal place of business of the Company's personnel incurred in carrying out the Project.]

- 3.3. Time shall be of the essence for all payments under these Terms.
- 3.4. Unless otherwise expressly agreed in writing, the Company will submit invoices on a monthly basis and payment in full is due within [30] days of the date of the invoice. The Client shall notify the Company in writing within [10] days of receipt if any invoice is disputed.
- 3.5. All fees quoted shall be exclusive of expenses, disbursement and VAT unless otherwise stated.
- 3.6. If an invoice remains unpaid for [30] days the Company shall be entitled to charge interest from the date of that invoice at the rate of [4%] above the base lending rate of [Barclays Bank Plc] from time-to-time applying until the invoice is paid in full.
- 3.7. Without prejudice to clause [3.6], the Company reserves the right to suspend its Services hereunder if any invoice is not paid within [60] days or the date of submission by the Company. If any item or part of an invoice rendered by the Company is disputed or subject to question, the payment of the remainder of the invoice shall not be withheld on those grounds and the provisions of clause [3.6] shall apply to such remainder. Clause [3.6] shall apply to the extent that any disputed or questioned item becomes agreed or is determined to have been due to the Company.

4. Right of Entry

- 4.1. The Client hereby grants the Company and its subcontractors the right of entry to the Site and permission to perform the Services. Including without limitation the performance of test borings and all other Site investigations which are contained in the Proposal.
- 4.2. Should the Client not own the Site, the Client warrants that it has obtained the permission of the Site owner and so far as may be relevant, permission of the Site occupier to grant the Company the right of entry and permission referred to in sub-clause 4.1 and the Client hereby indemnifies the Company against all liability, loss, costs and expenses incurred by reason of any claim brought by any person for loss, damage or distress caused to that person as a result of the Company entering onto the site and performing the Services without the permission of the Site owner or the Site occupier.

5. Surface and Sub-Surface Explorations

- 5.1. The Client acknowledges that in performing the Services the terrain, vegetation, buildings, structures, improvements and equipment at, in or upon the Site may be affected, altered or damaged as a result of the use of equipment necessary for the Company to provide the Services. The Company will not be liable for any effect, alteration or damage so arising and the Client hereby indemnifies the Company against any loss or claim arising out of or connected with any affect, alteration or damage as the case may be.



- 5.2. The Client grants permission to the Company to conduct Site investigations in accordance with the Proposal. The Company relies on the information provided to it by the Client and does not accept liability for any damage, injury or interference with the Site or any subterranean structure or condition of the Site including without limiting the generality of this term any pipe, tank, cable or any other service provided at the Site if the existence and location of the same is not drawn to the Company's attention by the Client prior to the commencement of the Services.

6. Information and Facilities To Be Supplied By The Client

- 6.1. The Client shall supply to the Company without charge and within sufficient time to permit the Company to provide the Services all necessary and relevant data and information in the possession of the Client related to the Project and/or Proposal and shall give such assistance as shall reasonably be required in the provision of the Services. This includes but is not limited to:
- 6.1.1. full or specifically-defined access to the Project Site;
 - 6.1.2. unfettered use of utilities at the Site;
 - 6.1.3. any and all visas and permits for personnel and equipment to enter and leave the Client's country and Site;
 - 6.1.4. any and all licences or permits for the Services to be undertaken at the Site;
 - 6.1.5. use of office and telephone facilities at the Site;
 - 6.1.6. appropriate Site security and insurance;
 - 6.1.7. assistance in arranging accommodation local to the Site;
 - 6.1.8. Appropriate medical facilities on or near the Site;
 - 6.1.9. Any and all information on special hazards or risks at the Site or otherwise in relation to the Project.
- 6.2. Without reducing the generality of the obligation in sub-clause 6.1, the Client shall provide the Company with any information in the Client's possession regarding the existence of hazardous materials or waste on in at or under the Site and all relevant documents relating to handling practices, environmental permits, records of compliance or non-compliance or other matters which might reasonably be considered to affect the provision of the Services.
- 6.3. The Client shall:
- 6.3.1. in providing the Company with all data (presently or subsequently in the possession of the Client and relevant to the provision of Services) represent and warrant that it has made all due enquiry and that the data is accurate to the best of the Client's knowledge
 - 6.3.2. accurately indicate and mark for the Company the location of property boundaries, easements, utilities and Site conditions of which the Client has knowledge
 - 6.3.3. retain ownership of and take full responsibility for the generation, treatment, disposal, mobilisation and transportation of any and all hazardous substances
- 6.4. If the Client is not the Site owner or operator it shall nevertheless procure such information as is required under sub-clauses 6.1 and 6.2 and all such data and information shall be deemed to be supplied directly by the Client for the purpose of these Terms. The Company will not be responsible for damages, claims or liabilities which arise as a result of the Client providing inaccurate or incomplete information.



7. Site Conditions

- 7.1. The Client agrees that in some circumstances Site conditions might prevent or inhibit provision of the Services as anticipated in the Proposal and that the provision of Services may be delayed or suspended. Delay or suspension may be the result of but is not limited to obstructions by others using the Site, third party acts or omissions, encountering unforeseen hazardous materials or other conditions which are deemed by the Company to be unsafe working conditions. For the avoidance of any doubt, the Company shall not be obliged to work at the Site in dangerous, unhealthy or unsafe conditions.
- 7.2. Any such delays referred to in sub-clause 7.1 and any delays caused directly or indirectly by the Client, its subcontractors, consultants, agents, officers, directors and employees, shall automatically extend the completion date for provision of the Services and the Company shall be entitled to charge the Client for any additional costs incurred together with any reasonable delay charges. In this sub-clause “delay charges” shall include but not be limited to costs associated with personnel and equipment rescheduling and/or reassigning adjustments and all other costs arising out of or connected with such delay including, but not limited to, labour and material escalation costs and extended overhead costs.

8. Intellectual Property Rights

- 8.1. In this clause “intellectual property rights” means any patent, copyright, registered or unregistered design right, database right, registered or unregistered trademark, rights in relation to confidential information or any other intellectual property rights in any part of the world.
- 8.2. All databases, design, documents, drawings, notebooks, photographs and records which are made by the Company or any of the Company’s personnel in the course of providing the Services, any media containing or recording any part of any of the foregoing items and any intellectual property rights in respect of any of those items shall belong exclusively to the Company and accordingly to the extent that it may be necessary for the avoidance of doubt to do so, the Client hereby assigns to the Company (where appropriate by way of present assignment of future copyright) (or in any other case agrees to assign to the Company absolutely on demand) with full title guarantee and for no further consideration all intellectual property right in respect of those items.
- 8.3. If and to the extent that it is not reasonably practicable for the Company to provide the Services without the use of any intellectual property rights of the Client, the Client hereby grants to the Company a non-exclusive irrevocable non-transferrable and royalty-free licence to use such intellectual property rights of the Client as the Company shall require for that purpose.

9. Force Majeure

- 9.1. The Client shall not hold the Company responsible for damages or delays in performance caused by acts of God, acts and/or omissions of government or regulatory authorities or other events which are beyond the control of the Company. For this purpose such acts or events shall include but not be limited to storms,



floods, epidemics, war, riot, strikes, lockouts or other industrial disturbances, and inability with reasonable diligence to supply personnel, information or material to the Project. Should such acts or events occur it is agreed that the Company shall use reasonable endeavours to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit and schedule of the Services covered by these Terms. Delays in excess of [30] days within the scope of this Clause shall at the option of either party entitle either party to terminate the Agreement.

10. Confidentiality

10.1. Subject to sub-clause 10.2 and clause 15 the Company will not disclose information about the Agreement, its Services or its reports to anyone except on the Client's written instructions. The Company will keep information confidential except to the extent necessary:

- 10.1.1. for the Company to perform its Services; or
- 10.1.2. to comply with professional standards to protect public health, safety and the environment; or
- 10.1.3. to comply with any statutory obligation of the Company, any decision, judgment or order of the court or any lawful direction, instruction, notice or order of any competent regulatory authority ("Orders").

Information which is known to the public or technical information which the Company may have developed independently or required without any breach of duty will not be considered confidential.

10.2. If by Order the Company is required to disclose information in its possession, the Company shall give the Client prompt notice in writing wherever possible of such facts. Thereafter the Company may, without liability to the Client or others, comply with such Orders. If any claims are asserted against the Company because of the Company's compliance, the Client will hold the Company harmless from such claims provided that the Company's disclosure is made under a reasonable bona fide belief or is otherwise made on the advice of legal counsel that such disclosure is required by law or by Order.

11. Provision of the Services

11.1. The Company shall exercise all reasonable skill, care and diligence in the discharge of the Services and shall exercise the same degree of care ordinarily exercised by qualified professionals undertaking work under similar circumstances in the same geographical area.

11.2. All surveys, findings, forecasts, statements of opinion and recommendations in the Proposal, in any correspondence or in any report submitted by the Company are made in good faith and on the basis of the information before the Company at that time. The Client acknowledges that provision of the Services requires decisions which are based upon professional judgment rather than scientific certainties and that there are inherent risks associated with assessment or remediation of Sites, especially those containing hazardous materials. The Company's recommendations and conclusions are subject to modifications due to changes in Site conditions, information, or regulations which may occur after the Services have been performed or during performance of Services.



- 11.3. The Client acknowledges that the Company's Services, as described in the Proposal, will be performed solely for the use of the Client and to the standards outlined in these Terms and will not be disclosed or used or relied upon in any way by any third party unless stated otherwise in the Proposal. No warranty, indemnity or guarantee either express or implied is given or intended by the Company in either these Terms or in the Company's reports.
- 11.4. The Client acknowledges that the findings and recommendations of the Company relate only to the conditions at the Site at the time the Company undertakes the Services.
- 11.5. The Client acknowledges that it will place no reliance on information, data or any other matter other than that contained within a final report prepared and provided by the Company and the Client acknowledges that the Company has no liability for any loss, damage or injury caused by the Client's reliance upon information, data or other matters not so presented to the Client.
- 11.6. The Client acknowledges that the Company has neither created nor contributed to the presence of hazardous materials or hazardous conditions at or near the Site and the Company's compensation for Services is disproportionately small in relation to the potential risk of injury, loss or damages arising from the release of or exposure to such conditions. The Client agrees to indemnify and hold the Company harmless from any claim for liability, damages (whether direct or consequential) injury, loss or expenses sustained by any party arising from the presence of hazardous materials or hazardous conditions at the Site except to the extent caused by the gross negligence or wilful misconduct of the Company.
- 11.7. The Client will not approach or contact, with the intention of employing or retaining any employee of the Company engaged on connected with or known by virtue of the Agreement without the prior agreement of the Company. This restriction is to apply at all times during the Project and for a period of 6 months following completion of the Project.

12. Limitation of Liability

- 12.1. In this clause 12:
- 12.1.1. **"liability"** means any liability by reason of any representation (unless fraudulent) or the breach of any implied condition, warranty or other term or any duty of common law or under any statute or under any express term or otherwise; and
- 12.1.2. **"loss"** means in relation to either party any loss or reduction of profit, contracts, goodwill, anticipated savings, wasted expenditure, increased costs of production or investigation or development or any other loss of any kind which is incurred by that party or any damages, costs or other claims for compensation and any expenses (including legal expenses) which are awarded against or incurred by or paid or agreed to be paid by that party however the same may arise and whether occasioned by the negligence of the other party, its employees or agents or otherwise.



- 12.2. Neither party seeks to limit any liability which it may have arising out of or in connection with this agreement in respect of death or personal injury caused through negligence or fraudulent misrepresentation.
- 12.3. Save for the provisions of clause 5 and subject to clause 12.2. neither party shall have any liability to the other party arising out of or in connection with this Agreement for any indirect, special or consequential loss of the other party
- 12.4. Unless expressly varied by the Proposal or otherwise by the parties in writing, the total liability of the Company for any direct losses of the Client where such losses are attributable directly to the defective work by the Company and are in respect of one event or a series of connected events shall not exceed the sum payable to the Company for the Services of [£50,000] whichever is the greater amount.
- 12.5. The Company accepts no liability for any losses incurred as a result of the failure of the Client to follow the Company's advice.

13. Duration of Agreement

- 13.1. These Terms shall commence on the date referred to in clause 2 hereof and, subject to the following provisions shall continue until the Services have been provided.
- 13.2. The Client may forthwith terminate the agreement by giving written notice to the Company if the Company;
- 13.2.1. commits a material breach of the Agreement and if the breach is capable of being remedied, fails to remedy it within 30 days after receipt of a written notice specifying the breach and requiring it to be remedied; or goes into liquidation or administration, has a receiver appointed over any of its assets or makes a voluntary arrangement or composition with its creditors (in each case within the meaning of the Insolvency Act 1986); or
- 13.2.2. At any other time upon giving [30] days written notice to the Company.
- 13.3. The Company may forthwith terminate the Agreement by giving written notice to the Client if the Client:
- 13.3.1. fails to pay any sum payable by it under these Terms within 30 days of the due date of payment;
- 13.3.2. commits a material breach of these terms (other than one to which clause [13.3.1] applies) and if the breach is capable of remedy fails to remedy it within [30] days after receipt of a written notice specifying the breach and requiring it to be remedied; or
- 13.3.3. goes into liquidation or administration, has a receiver appointed over any of its assets or makes a voluntary arrangement or composition with its creditors (in each case within the meaning of the Insolvency Act 1986).
- 13.4. For the purposes of clauses [13.2.1] and [13.3.2] a breach of any provision of the Agreement shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that the time of performance is not of the essence).



13.5. No time or indulgence granted by either party shall be considered a waiver of any provision by the party and no waiver by either party of a breach of the Agreement shall be considered a waiver of any subsequent breach of the same or any other provision.

13.6. The termination of the Agreement for any reason shall not affect any accrued right or liability of either party arising under the Agreement and shall not affect any other right or remedy of either party.

14. Consequences of Termination

14.1. On the termination of the Agreement for any reason the Company shall return to the Client all confidential information and personal data obtained or produced in the course of providing the Services.

14.2. The expiry of the Agreement shall not affect any:

14.2.1. payment which is owing by either party to the other;

14.2.2. other accrued rights of either party.

14.2.3. provision of the Agreement which is expressed to come into force or continue in force on or after termination.

[14.3 If the Client terminates the Agreement under clause 13.2.3 above the Client shall pay to the Company sums as are reasonably expended by the Company in bringing the Services under the Agreement to an end promptly plus all fees incurred by the Company up to the date that Services end and in addition where fees are fixed a cancellation fee of 5% of the remainder of the fixed price as at the date of termination.]

15. Publicity

Save that the Company reserves the right to publicise the existence of the Agreement but give no details of the same, no press release or other public statement relating to the proposal shall be made by either party without the written consent of the other, such consent not to be unreasonably withheld.]

16. Waiver

16.1. The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

16.2. No waiver shall be effective unless it is communicated to the other party in writing in accordance with clause 17.

16.3. A waiver of any right or remedy arising from a breach of these Terms shall not constitute a waiver of any right or remedy arising from any other breach of these Terms.

17. Notice

17.1. A notice relating to the Agreement will be validly given only if it is in writing and delivered personally or by courier or sent by first class post (or air mail if overseas),



recorded delivery or fax to the party in question (marked for the attention of "The Company Secretary" or such other officer of that party as it is notified to the other party in writing for this purpose) at the address or fax number set out in the Agreement or such other addresses or fax number as the party in question may specify by notice. A notice shall not be valid if sent by email.

17.2. In the absence of evidence of earlier receipt and notices deemed given:

17.2.1. if delivered personally or by courier and left if the relevant address;

17.2.2. if sent by first class post two days after posting it or if sent by air mail six days after posting it;

17.2.3. if sent by fax on completion of transmission, provided that the transmission fax machine prints out a successful transmission report.

17.3. If notice is deemed under sub-clause 17.2 to have been given on a day other than a normal working day or if the notice is given by fax and transmission is completed after 5pm on a normal working day it shall instead be deemed to be given on the next working day.

17.4. Each party shall immediately give notice to the other of a change in its address or fax number.

18. Nature of Agreement

18.1. The Company shall be entitled to exercise any of its rights or perform any of its obligations under these Terms through a subcontractor or agent or one or more of its affiliated companies.

18.2. The Parties shall not without the prior written consent of the other assign, mortgage, charge or otherwise transfer to any other person or create any trust over any of its rights under these Terms.

18.3. Neither party shall unreasonably withhold or delay giving its consent to the other in transferring any of its rights or obligations to a person who acquires substantially the whole of the assets of the party in question provided that the transferee enters into a binding written agreement with the party in question to comply with all the applicable provisions of these Terms.

18.4. Nothing in these Terms shall constitute or create or be deemed to constitute a create a partnership or the relationship of principal and agent or employer and employee between the Company and the Client and any of the Company's personnel.

18.5. These Terms contain the entire agreement between the Parties in respect to its subject matter and may not be varied except by a written agreement between the Parties.

18.6. Each party acknowledges that in entering into these Terms it does not rely on any representation, warranty or other term or understanding except as expressly set out in these Terms but nothing in these terms affects the liability of either party for fraudulent misrepresentation.



18.7. Except as otherwise may be provided, a person who is not a party to this agreement has no right under the Contract (Rights of Third Parties) Act 1999 to rely upon or enforce any term but nothing in these Terms shall affect any right or remedy of a third party which exists or is available otherwise as a result of that Act.

18.8. If any provision of these Terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part the Terms shall continue to be valid as to its other provisions and the remainder of the affected provision.

19. Applicable Law and Jurisdiction

19.1. English law shall apply to the whole of these Terms.

19.2. Any dispute arising out of or in connection with these Terms shall be subject to the non-exclusive jurisdiction of the English courts to which the parties agree to submit.

