



## TERMS AND CONDITIONS FOR SUPPLY OF SERVICES

### 1. Definitions

In these Terms and Conditions, the following words shall have the following meanings:

'Client' means the Party instructing the Company.  
'Company' means NDT Detect Inspect Ltd.

#### 'Confidential Information'

- (a) In respect of Information provided in documentary form or by way of a model or in other tangible form, Information which at the time of provision is marked or otherwise designated to show expressly or by necessary implication that it is imparted in confidence,
- (b) In respect of Information that is imparted orally, any information that the Client or its representatives informed the Company at the time of disclosure was imparted in confidence,
- (c) In respect of Information imparted orally, any note or record of the disclosure,
- (d) Any copy of any of the foregoing,
- (e) The fact that Parties entered into, or are performing their obligations under, this Agreement

'Fee(s)' the amount(s) either as set out in a schedule (where applicable) or in accordance with an agreed quotation or contract.



‘Information’ shall include information whether of a technical, commercial or any other nature whatsoever provided directly or indirectly by the Client to the Company in oral, electronic or documentary form or by way of models, biological or chemical materials or other tangible form or by demonstrations and whether before, on or after the date of this Agreement.

‘Named Technician/Inspector means the person(s) who will be providing the NDT or Inspection Services.

‘Parties’ the Company and the Client, and ‘Party’ shall mean either one of them.

‘Services’ the NDT or Inspection Services as set out in the attached Schedule.

‘Specification’ the specific Inspection Services to be provided by the Technician/Inspector under these Terms and Conditions when such NDT or Inspection services will be provided, the length of time they will take to perform and the human and other resources and facilities which are to be supplied by the Technician/Inspector. The Specification is set out in the attached Schedule.

## **2. Consultancy / Inspection Services**

- 2.1** The Company shall provide the NDT and Inspection Services as the Parties may agree as specified by the Client in consideration for the Client paying the Fee to the Company subject to the provisions of these Terms and Conditions.
- 2.2** The Company and the Client shall agree the time and place for the performance of the services.



- 2.3 The Service shall be performed by such employees or agents that the Company may choose as most appropriate to carry out the Services.

3. **Time Not of the Essence**

The Client acknowledges and agrees that time is not of the essence for:

- 3.1 Any dates or times when Services are due to be performed.
- 3.2 The length of time that any Services will take to perform.
- 3.3 Any date or time when the Services will be completed.

4. **Client's Obligations**

During the performance of the Services, the Client will co-operate with the Technician/Inspector as the Technician/Inspector reasonably requires, provide the information and documentation that the Technician/Inspector reasonably requires, make available to the Technician/Inspector such Facilities as the Technician/Inspector reasonably requires, and ensure that the Client's staff and agents co-operate with and assist the Technician/Inspector where appropriate.



5. *Provision of Reports*

The Company will provide reports in accordance with the agreed Services and unless otherwise agreed by the parties. The Client will be entitled to one copy of any report provided by the Technician/Inspector and the Client will be entitled to use any reports for its own internal purposes. The Client will not be entitled to publish any reports (or sell or make the reports available to third parties), or allow any other person to do so and the copyright and database right (and all other intellectual property rights) in the reports (or any other material created or prepared, whether or not provided to the Client, by the Technician/Inspector in performing the Services) shall belong to the Company.

6. *Confidentiality*

6.1 Each Party shall keep the Confidential Information of the other Party confidential and secret. The Client shall inform its officers, employees and agents of its obligations under the provision of this clause 6, and ensure that its officers, employees and agents meet the obligations.

- 6.2 The obligations of clause 6 shall not apply to any Information which was known or in the possession of the Parties before it was provided is, or becomes, publicly available through no fault of the Parties is provided without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure; or is required to be disclosed by order of a court of competent jurisdiction.

7. *Use of sub-contractors*

The Company is permitted to use other persons to provide some or all of the Services. The Technician/Inspector shall be responsible for the work of a subcontractor whose work shall be undertaken to the same as agreed by the Parties. However, the Parties acknowledge and agree that some sub-contractors have their own terms and conditions on which they trade, and which are more restrictive than these provisions. For example, without limiting the generality of the foregoing, a sub-contractor may have more restrictive wording as to the standard it will reach in work it performs (as to timing or quality), what is to happen if that standard is not reached or met, or issues concerning the restriction and exclusion of liability). Where the terms and conditions of a subcontractor are more restrictive or exclusory than these provisions, the Parties agree that work provided by a sub-contractor will be governed by the terms and conditions of the sub-contractor rather than these provisions.

8. *Warranties, liability and indemnities*

- 8.1 The Company warrants that it will use reasonable care and skill in performing the NDT and Inspection Services to the standard generally

accepted within the industry, sector or profession in which the Consultant / Engineer operates for the type of NDT and Inspection Services provided by the Technician/Inspector.

- 8.2** The Technician/Inspector provides no warranty that any result or objective can or will be achieved or attained at all or by a given completion date.
- 8.3** Except in the case of death or personal injury caused by the Company's negligence, the liability of the Company whether arising in contract, tort, negligence, breach of statutory duty or otherwise howsoever shall not exceed the Fee(s) paid by the Client to the Company under any services provided pursuant to these Terms and Conditions.
- 8.4** The Company shall not be liable to the Client in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the Client of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.
- 8.5** The client shall indemnify and hold harmless the Company from and against all Claims and Losses arising from loss, damage, liability, injury to the Technician/Inspector, its employees and third parties, infringement of third party intellectual property, or third party losses by reason of or arising out of any information supplied to the Client by the technician, its employees or Technician/Inspector, or supplied to the Technician/Inspector by the Client within or without the scope of these Terms and Conditions. 'Claims' shall mean all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise); and 'Losses' shall mean all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever.
- 8.6** The Client acknowledges that, in entering into a Contract pursuant to these Terms and Conditions it does not do so in reliance on any representation, warranty or other provision except as expressly provided in these Terms and Conditions and any conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law. Nothing in these Terms and Conditions excludes liability for fraud.

9. *Force majeure*

The Company shall have no liability under or be deemed to be in breach of terms provided pursuant to these Terms and Conditions for any delays or failures in performance which result from circumstances beyond the reasonable control of the Company including but not limited to strikes, lock-outs, accidents, war, fire, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from normal sources of supply.

10. *Waiver*

10.1 No failure or delay by the Company in exercising any right, power or privilege under these Terms and Conditions shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies herein are cumulative and not exclusive of any rights and remedies provided by law.

10.2 If any provision of these Terms and Conditions is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed and rendered ineffective as far as possible without modifying the remaining provisions and shall not in any way affect any other circumstances of or the validity or enforcement of them.

11. *Payment Terms*

11.1 The standard Terms of payment of the Company in the United Kingdom applicable from time to time shall be deemed to be incorporated in all contracts of the Company to which these Conditions apply, and payments shall be in accordance with such standard terms of payment. Unless otherwise agreed. The standard terms of payment shall be 30days net from the date of the invoice.

- 11.2 The price shall be due in full to the Company in accordance with the terms of the order and the Client shall not be entitled to exercise any set off, lien or any other similar right or claim.
- 11.3 The time of the payment shall be of the essence of the Contract.
- 11.4 Without prejudice to any other rights it may have, the Company is entitled to charge interest each month at 4% above the then current base rate of the Bank of England on overdue payments.
- 11.5 Any expenses incurred by the company such as flights, parking, hotels and subsidence will be charged back to the client plus 12.5%

12. **Further Restrictions**

- 12.1 In order to protect the legitimate business interests of the Company, the client covenants with the Company [for itself and as agent for each group Company] that it shall not (and shall procure that no member of the client's Group shall) (except with the prior written consent of the Company):
- (a) Attempt to solicit or entice away; or
- (b) Solicit or entice away from the employment or service of the Company, the services of any Restricted Person other than by means of a national advertising campaign open to all-corners and not specifically targeted at such staff of the Company.
- 12.2 The client shall be bound by the covenant set out in Clause 12.1 during the term of this agreement, and for a period of 12 months after termination of this agreement
- 12.3 For the purposes of this Clause 12, a Restricted Person shall mean any firm, company or person employed or engaged by the Company or any Group Company during the term of this agreement, who has been engaged in the provision of the Services or the management of this agreement either as principal, agent, employee, independent contractor or in any other form of



employment or engagement [and who could materially damage the interests of the Company if they were involved in any capacity in any business concern which competes with the business of the Company.

- 12.4** If the client commits any breach of this Clause 12, the client shall, on demand, pay to the Company or relevant Group Company a sum equal to one year's basic salary or the annual fee that was payable by the Company or relevant Group Company to the Restricted Person plus the recruitment costs incurred by the Company or relevant Group Company in replacing such person.

**13.** *General*

These Conditions shall be deemed to be incorporated in all Contracts of the Company to supply Services and in the case of any inconsistency between any letter tender or quotation incorporating or referring to these Conditions and any other communication between the Company and the Client these Conditions shall prevail unless expressly varied in writing and signed by a Director on the Company's behalf. Any concession made or latitude allowed by the Company to the Client shall not affect the strict rights of the Company under the Contract.