



## STANDARD TERMS AND CONDITIONS FOR THE PROVISION OF CONSULTANCY SERVICES

### 1. Definitions

In this Agreement the following terms shall have the following meanings:

"Agreement"	Means together the Conditions and the Proposal (and in the event of any inconsistency between the terms of the Proposal and any of the Conditions, the terms of the Proposal shall prevail);
"Client"	Means the person identified in the Proposal to whom VisitMôr Ltd has agreed to provide the Services;
"Conditions"	Means the standard terms and conditions for the provision of Services set out in this document;
"Expenses"	All expenses reasonably incurred by VisitMôr Ltd in providing the Services, including without limitation, the cost of hotels, subsistence, travelling and other ancillary expenses;
"Fees"	Means the fees payable in respect of the Services at the rates set out in the Proposal;
"Intellectual Property"	Means copyright, database rights, trade marks, domain names, design rights, patents and know how and in all cases whether registered, registerable or not and wherever in the world such rights subsist;
"Proposal"	Means a tender or quotation (or similar document) of VisitMôr Ltd for the provision of Services which is accepted by the Client or a remit or letter of instruction (or similar document) from the Client for the provision of Services which is accepted by VisitMôr Ltd;
"Materials"	means all documents, designs, survey data, calculations, samples, materials and other information generated by VisitMôr Ltd in the course of providing the Services;
"Services"	Means the services to be supplied by VisitMôr Ltd in accordance with these Conditions and specified in the Proposal;
"Site"	Means any parcel or parcels of land (including the airspace above and sub-soil below such parcels) in relation to which VisitMôr Ltd is to provide the Services;
"VisitMôr Ltd"	Means VisitMôr Ltd (registered in England and Wales number 12301171) whose registered office is at VisitMôr Ltd, 87 High Street, Hanham, Bristol BS15 3QG.



## **2. Application of Conditions and Provision of Services**

- 2.1 These Conditions shall apply to and be incorporated into the Agreement and prevail over any inconsistent terms or conditions contained, or referred to, in the Client's confirmation of order or specification or other document supplied by the Client, or implied by practice or course of dealing.
- 2.2 The Client's purchase order or acceptance of the Proposal constitutes an offer by the Client to purchase the Services on these Conditions. No offer placed by the Client shall be accepted by VisitMôr Ltd other than:
- by a written acknowledgement issued and executed by VisitMôr Ltd; or
  - (if earlier) by VisitMôr Ltd starting to provide the Services,
- when a contract for the supply and purchase of the Services on these Conditions will be established.
- 2.3 The Client's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern the Agreement.
- 2.4 In consideration of the payment of the Charges, VisitMôr Ltd shall provide the Services to the Client in accordance with the Agreement and using all reasonable care and skill.
- 2.5 The Client acknowledges that the successful implementation of recommendations made by VisitMôr Ltd as part of the Services may depend on a number of factors outside of the control of VisitMôr Ltd for which VisitMôr Ltd cannot and does not accept any responsibility, such as, but not limited to:-
- That the recommendations are implemented promptly and in the manner (if any) stipulated by VisitMôr Ltd; and
  - That the conditions of any relevant Site do not differ materially from those made known to VisitMôr Ltd by the Client;
- 2.6 The Client further acknowledges that biological systems are inherently unpredictable and that a degree of uncertainty will therefore be associated with any findings, assessment or conclusions of VisitMôr Ltd in relation to such systems, such as (but not limited to) predictions as to how a site enhancement or habitat creation may evolve.
- 2.7 VisitMôr Ltd shall use all reasonable endeavours to meet any timescales specified in the Proposal, but:-
- VisitMôr Ltd shall not have any liability for failure to meet such timescales due to any factor beyond its reasonable control; and
  - In any event, any delay in meeting such timescales shall not entitle the Client to terminate the Agreement.

## **3. Client's responsibilities**

- 3.1 The Client shall during the continuance of the Agreement:-
- provide VisitMôr Ltd, its employees, agents and sub-contractors with all such assistance as is reasonably necessary to enable VisitMôr Ltd, including its employees, agents and sub-contractors to provide the Services in accordance with the Agreement;
  - if access to the Site is required by VisitMôr Ltd to provide the Services, provide access to the Site (and any other premises or locations reasonably required by VisitMôr Ltd) to VisitMôr Ltd, its contractors and employees in a timely manner and at no charge;
  - make a full disclosure to VisitMôr Ltd of all information and material relevant to the subject matter of the Services, including (but not limited to) all documents,



maps or other information relating to any Site that VisitMôr Ltd may reasonably require to enable it to provide the Services in accordance with the Agreement;

- ensure that any such information and material is true, accurate and complete in all respects and does not infringe any rights (including Intellectual Property) of any third party;
- ensure that such information is provided within sufficient time to enable VisitMôr Ltd to provide the Services in accordance with the Agreement; and
- indemnify VisitMôr Ltd (and keep it indemnified) against all costs claims expenses and other liabilities arising out of or in connection with any breach by the Client of its obligations under the Agreement.

3.2 Without prejudice to the generality of clause 3.1 the Client shall:-

- where relevant and to the extent that the location is known, notify VisitMôr Ltd in writing of the location of all underground services, utilities or obstructions at any Site; and
- indemnify VisitMôr Ltd (and keep it indemnified) against all costs, claims expenses and other liabilities arising from any damage caused to any underground services, utilities or obstructions at any Site that are not drawn to the attention of VisitMôr Ltd, except to the extent that such damage was caused by the negligence of VisitMôr Ltd or its employees, agents or sub-contractors.

3.3 In the event that any employee, sub-contractor or other representative of VisitMôr Ltd is required to attend at any Site, or at any premises of the Client (if different), in connection with the provision of the Services the Client shall procure:-

- that all necessary permissions are obtained to allow such individuals free access (at no charge to VisitMôr Ltd) to all relevant parts of the Site or premises in question; and
- that all reasonable steps are taken to ensure the health and safety of such individuals.

#### 4. **Materials generated by VisitMôr Ltd**

4.1 All documents, designs, survey data, calculations, samples and other materials generated by VisitMôr Ltd in the course of providing the Services ("the **Materials**"), together with all Intellectual Property subsisting in the Materials, shall be owned exclusively by VisitMôr Ltd.

4.2 The Client shall have a licence to copy and use the Materials, but only for purposes related to the Proposal; provided that:

4.2.1 VisitMôr Ltd shall not be liable if any of the Materials are modified other than by or with the consent of VisitMôr Ltd, or used for any purpose other than that for which they were prepared, or used for any unauthorised purpose; and/or

4.2.2 if the Client is in default of payment of any Fees or other amounts due under this Agreement, VisitMôr Ltd may suspend the licence on giving seven days' notice of the intention of doing so.

4.3 The Client shall reproduce any copyright statements attributing authorship of the Materials to VisitMôr Ltd and/or its contractors (if any) as required by VisitMôr Ltd.

4.4 The Client acknowledges that during the course of providing the Services VisitMôr Ltd and its contractors (if any) will develop experience, expertise processes, procedures, know how and methodology relating to the subject matter of the Services ("the Methodology"). The Client agrees that nothing in the Agreement shall be deemed to assign any rights of ownership or other



Intellectual Property relating to the Methodology from VisitMôr Ltd and/or its contractors (if any) to the Client.

- 4.5 Unless otherwise agreed in writing, VisitMôr Ltd shall only be obliged to provide (one) paper and [one] electronic copy of any Materials in relation to the Services and shall be entitled to charge a reasonable fee for the provision of any further copies.

## **5. Fees**

- 5.1 In consideration of the Services, the Client shall pay the Fees and the Expenses to VisitMôr Ltd.
- 5.2 The Fees are based on the number of visits to the Site (including any visits to other locations/sites listed in the Proposal), the number of meetings with the Client and the number or type of deliverables (such as illustrations, photographs, field work analyses or reports) required, all as detailed in the Proposal.
- 5.3 The Fees do not include graphic/exhibit production costs, habitat creation or restoration costs, other procurements costs or Expenses.
- 5.4 Unless otherwise agreed, all Fees are exclusive of VAT (or any other applicable sales tax).
- 5.5 The Client shall pay the Fees (together with VAT or other applicable sales tax on such sums) and the Expenses to VisitMôr Ltd on the dates specified in the Proposal and in the absence of any such dates, within 7 days of the date of invoice. Unless otherwise specified in the Proposal, VisitMôr Ltd may invoice the Fees and the Expenses at the start of each calendar month in respect of the Services carried out in the preceding month.
- 5.6 VisitMôr Ltd may require the Client to pay sums on account of the Fees and/or Expenses to be incurred (or a proportion of them) which shall be paid by the Client within 7 days of the date of a written request from VisitMôr Ltd.
- 5.7 The Client shall pay the Fees in the currency specified in the Proposal, and in respect of the Expenses, at the currency specified in the invoice.
- 5.8 Without prejudice to any other remedy which VisitMôr Ltd may have, in the event that any sums due under the Agreement are not received by VisitMôr Ltd in cleared funds by the due dates referred to in clause 5.5 and 5.6 above VisitMôr Ltd may:-
- charge interest on the overdue amount at the rate of 8% above the base rate of The Co-operative Bank plc for the time being from the due date until the overdue sums have been received by VisitMôr Ltd in cleared funds; or
  - suspend the performance of any services or obligations (including, without limitation, the Services) required to be performed by VisitMôr Ltd under the Agreement until such time as payment of the overdue sums (together with any interest) have been received by VisitMôr Ltd in cleared funds.
- 5.9 VisitMôr Ltd may, without prejudice to any other rights it may have, set off any liability of the Client to VisitMôr Ltd against any liability of VisitMôr Ltd to the Client.

## **6. Changes to Services**

- 6.1 VisitMôr Ltd shall have the right at all times in its absolute discretion:-
- to make such changes to the Services that it reasonably considers are necessary to meet the Client's overall objectives or that may be required by law; and



- to increase the fees payable by the Client to reflect any increase in the cost of providing the Services caused by a failure of the Client to meet its obligations under the Agreement.
- 6.2 If the Client requires any changes to be made to the Services, it shall provide VisitMôr Ltd with full written details of the proposed changes and VisitMôr Ltd shall as soon reasonably practicable respond with details of any alteration to the fees or to any delivery or completion date which it considers is necessary as a result of such changes. Within 7 days of the receipt of such response, the Client shall notify VisitMôr Ltd in writing of the Client's decision to:-
- proceed, in which case the Proposal shall be deemed to have been amended accordingly; or
  - withdraw the proposed changes, in which case the Services shall continue unchanged.



## **7. Liability**

- 7.1 Neither party shall be liable to the other or be deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of its obligations under the Agreement if the delay or failure was due directly or indirectly to any circumstances beyond its reasonable control such as, but not limited to, war, fire, explosion, storm, strike or governmental restriction. If any party is affected by any such circumstances it shall promptly notify the other party and shall use all reasonable endeavours to resume the performance of its obligations under the Agreement as soon as possible.
- 7.2 If VisitMôr Ltd's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, VisitMôr Ltd shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.
- 7.3 VisitMôr Ltd shall not be liable to the Client for any loss, damage, costs, expenses or other claims for compensation arising out of or in connection with any breach by the Client of its obligations under the Agreement.
- 7.4 VisitMôr Ltd shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or under the express terms of the Agreement, for any loss of anticipated revenues, loss of profit, loss of business opportunities, loss of goodwill, or damage to reputation or any indirect or consequential loss of any kind (whether caused by the negligence of VisitMôr Ltd, its employees, agents or sub-contractors or otherwise) which arises out of or in connection with the Agreement.
- 7.5 The Client acknowledges that the Fees have been calculated partly on the basis of the amount of risk that VisitMôr Ltd is willing to undertake in connection with the Agreement. Accordingly the total liability of VisitMôr Ltd for any and all claims arising under or in connection with the Agreement shall not exceed the total value of the Fees payable under the Agreement.
- 7.6 Nothing in the Agreement shall have the effect of limiting or excluding the liability of VisitMôr Ltd for death or personal injury arising out of its negligence or otherwise as prohibited by law.

## **8. Confidential Information**

Each party acknowledges and accepts that it may receive information of a confidential nature relating to the other party, its business and clients ("Confidential Information"). Each party undertakes to the other that it will use the Confidential Information solely for the purposes envisaged by the Agreement and will not disclose such information unless:-

- the other party has consented in writing to such disclosure; or
- such disclosure is required by law;
- such information is already in the public domain, other than as a result of a breach of any obligation of confidentiality; or
- such disclosure is to those of the employees or other representatives of the party receiving such information who have a need to use such information in connection with the Services and is subject to that party procuring that such employees or representatives comply with the confidentiality obligations imposed by this clause.



## **9. Termination**

9.1 Either party may terminate the Agreement immediately by giving written notice to the other party in the event that:-

- the other party commits any serious breach of the Agreement and (if capable of remedy) fails to remedy such breach within 30 days after being given written notice to do so; or
- the other party makes any voluntary arrangement with its creditors, or (being an individual or firm) becomes bankrupt, or (being a company) becomes subject to an administration order or goes into liquidation (other than for the purposes of amalgamation or reconstruction), or is unable to pay its debts as they fall due, or a petition is filed for the winding up of that other party, or an encumbrancer takes possession, or a receiver is appointed, over any of its property or assets, or anything similar to any of these events occurs to the party in question under the law of any jurisdiction.

9.2 Following termination of the Agreement:-

- VisitMôr Ltd shall be entitled to invoice for all the Fees attributable to the work undertaken and Expenses incurred by VisitMôr Ltd to the date of termination (insofar as such sums have not previously been invoiced) and all invoices shall become immediately due and payable;
- the provisions of clause 5.8 shall apply to all sums due in accordance with the clause above;
- within 30 days following the receipt in cleared funds of the sums referred to in this clause 9.3 VisitMôr Ltd shall (at the cost of the Client) deliver any Materials to the Client that are completed or part completed; and
- clauses 7 (liability) and 8 (confidential information) shall continue to apply.

## **10. Non-Solicitation**

The Client shall not alone or jointly with another or others in any capacity and whether or not for its or their benefit at any time during this Agreement and for a period of six months after the termination or expiry of this Agreement directly or indirectly:-

- enter into or approach with a view to entering into a contract of employment involving the performance of services similar to the Services any person (whether an employee or sub-contractor of VisitMôr Ltd or otherwise) who was engaged in the provision of the Services to the Client; or
- engage or approach with a view to engaging for the provision of services similar to the Services any person (whether an employee or sub-contractor of VisitMôr Ltd or otherwise) who was engaged in the provision of the Services to the Client.

## **11. General**

11.1 No variation to these Conditions shall be binding unless agreed in writing.

11.2 Failure to exercise, or delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

11.3 If any provision (or part) of this Agreement is found by any Court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall,



- to the extent required be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 11.4 Any notice or consent required or permitted under the Agreement shall be in writing and shall be sent by first class post, hand delivery, or fax. If a notice has been properly sent or delivered in accordance with this clause, it will be deemed to have been received on the second working day after posting (for first class post), at the time of delivery (for hand delivery) or at the time of transmission (for faxes).
- 11.5 The Agreement constitutes the entire agreement and understanding between the parties with respect to its subject matter and the terms of this Agreement shall supersede any previous agreements. Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement. However nothing in this Agreement shall limit or exclude any liability for fraud.
- 11.6 The Client shall not, without prior written consent of VisitMôr Ltd, assign, transfer or charge or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 11.7 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 11.8 Nothing in the Agreement is intended to confer on any third party any benefit or the right to enforce any term of the Agreement.
- 11.9 English law is the law which applies to the Agreement and the Agreement shall be subject to the non-exclusive jurisdiction of the English courts.
- 11.10 Both Parties shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010