

2023

Consulting Agreement
relating to
[PROJECT NAME]

Ground Source Engineering Limited ⁽¹⁾
[NAME OF CLIENT] ⁽²⁾

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DATE

2023

PARTIES

- (1) **Ground Source Engineering Limited** incorporated and registered in England and Wales with company number 14482279 whose registered address is at 1 Snowdrop Terrace, Totnes, Devon, TQ9 5UW (the **Consultant**).
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [] whose registered address is at [] (the **Client**).

BACKGROUND

- A. The Client is of the opinion that the Consultant has the necessary qualifications, experience and abilities to provide services to the Client.
- B. The Consultant is agreeable to providing such services to the Client on the terms and conditions set out in this consulting agreement (the **Agreement**).

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Consultant (individually the **Party** and collectively the **Parties** to this Agreement) agree the following:

1. SERVICES PROVIDED

- 1.1. The Client hereby agrees to engage the Consultant to provide the Client with the following services (the **Services**) [for example]:
 - 1.1.1. Heat loss calculations;
 - 1.1.2. Ground source heat pump system design: RIBA stages 3 and 4; and
 - 1.1.3. Specialist advice throughout the full project life cycle.
- 1.2. The Services will also include any other tasks which the Parties may agree on. The Consultant hereby agrees to provide such Services to the Client.

2. TERM

- 2.1 This Agreement will remain in full force and effect until the completion of the Services and payment of the final invoice, unless terminated earlier in accordance with this Agreement.
- 2.2 Either Party may terminate this Agreement at any time by serving not less than 30 days' written notice to the other Party in accordance with Clause 16 of this Agreement.

- 2.3 In the event that either Party breaches a material provision under this Agreement, the non-defaulting Party may terminate this Agreement immediately and require the defaulting Party to indemnify the non-defaulting Party against all reasonable damages.
- 2.4 This Agreement may be terminated at any time by mutual agreement of the Parties.
- 2.5 Except as otherwise provided in this Agreement, the obligations of the Consultant will end upon the termination of this Agreement.

3. PERFORMANCE

- 3.1 The Parties agree to use all reasonable endeavours to ensure that the terms of this Agreement take effect.

4. CURRENCY AND FINANCE

- 4.1 Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in GBP.
- 4.2 The Consultant may provide financial illustrations as part of the Services to Clients. These in no way constitute any form of formal investment or financial advice and the Client should seek its own advice from professional and accredited sources. Ground Source Engineering Limited does not provide any finance, credit or leasing advice or agreements.

5. PAYMENT

- 5.1 The Consultant will provide to the Client an estimate of costs (the **Estimate**) prior to completion of this document.
- 5.2 The Consultant will charge the Client for the Services at a rate of £255 plus VAT per hour (the **Payment**).
- 5.3 An initial payment in the amount of 10% of the value of the Estimate is payable by the Client to the Consultant upon completion of this Agreement.
- 5.4 The balance of the Payment will be invoiced monthly in arrears according to the amount accrued during the month preceding the date on which the invoice is raised.
- 5.5 Invoices submitted by the Consultant to the Client are due upon receipt or as per terms on our invoice agreed in advance by the Consultant and the Client.
- 5.6 In the event that this Agreement is terminated by the Client prior to completion of the Services but where the Services have been partially performed, the Consultant will be entitled to pro rata payment of the Payment to the date of termination provided that there has been no breach of contract on

the part of the Consultant.

5.7 The Consultant will be responsible for all income tax liabilities and National Insurance or similar contributions relating to the Payment and will indemnify the Client in respect of any such payments required to be made by the Client.

5.8 The Consultant will be solely responsible for the payment of all remuneration and benefits due to the employees of Ground Source Engineering Limited, including any National Insurance, income tax and any other form of taxation or social security costs.

6. REIMBURSEMENT OF EXPENSES

6.1 The Consultant will be reimbursed from time to time for reasonable and proper expenses (agreed in advance by the Consultant and the Client) incurred in connection with providing the Services.

7. PENALTIES FOR LATE PAYMENT

7.1 Interest payable on any overdue amounts under this Agreement is at a rate of 8% per annum or at the maximum rate enforceable under applicable legislation, whichever is lower.

8. CONFIDENTIALITY

8.1 Confidential information (the **Confidential Information**) refers to any data or information relating to the business of the Client which would reasonably be considered to be proprietary to the Client including, but not limited to, accounting records, business processes, and client records and that is not generally known in the industry of the Client and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.

8.2 The Consultant agrees that it will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information it obtains, except as authorised by the Client or as required by law. The obligations of confidentiality will apply during the Term and survive the termination of this Agreement except in the case of any Confidential Information which is a trade secret in which case those obligations will last indefinitely.

8.3 All written and oral information and material disclosed or provided by the Client to the Consultant under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to the Consultant.

9. OWNERSHIP OF INTELLECTUAL PROPERTY

9.1 All intellectual property and related material, including but not limited to any trade secrets, moral rights, goodwill, relevant registrations or application for registration, and rights in any patent, copyright, trade mark, trade dress,

industrial design and trade name (the **Intellectual Property**) that is developed or produced in connection with this Agreement, will be the property of Ground Source Engineering Limited. The Client is granted a non-exclusive limited-use licence of the Intellectual Property.

- 9.2 Title, copyright, intellectual property rights and distribution rights of the Intellectual Property remain exclusively with Ground Source Engineering Limited.

10. RETURN OF PROPERTY

- 10.1 Upon the expiry or termination of this agreement, the consultant will return to the client any property, documentation, records, or confidential information which is the property of the client.

11. CAPACITY/INDEPENDENT CONTRACTOR

- 11.1 In providing the Services under this Agreement it is expressly agreed that Ground Source Engineering Limited is acting as an independent consultant and not as an employee. The Consultant and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

12. RIGHT OF SUBSTITUTION

- 12.1 Except as otherwise provided in this Agreement, or agreed separately in writing with the Client, Ground Source Engineering Limited may, at its absolute discretion, engage a third party sub-contractor to perform some or all of the obligations of its Services under this Agreement and the Client will not hire or engage any third parties to assist with the provision of the Services.

- 12.2 In the event that the Consultant hires a sub-contractor:

- 12.2.1 the Consultant will pay the sub-contractor for its Services and the compensation will remain payable by the Client to the Consultant.
- 12.2.2 for the purposes of the indemnification provisions at Clause 17 of this Agreement, the sub-contractor is an agent of Ground Source Engineering Limited.

13. AUTONOMY

- 13.1 Except as otherwise provided in this Agreement, the Consultant will have full control over working time, methods, and decision making in relation to provision of the Services in accordance with the Agreement. The Consultant will work autonomously and not at the direction of the Client. However, the Consultant will be responsive to the reasonable needs and concerns of the Client.

14. EQUIPMENT

- 14.1 Except as otherwise provided in this Agreement, the Consultant will provide at its own expense, any and all tools, machinery, equipment, raw materials, supplies, workwear and any other items or parts necessary to deliver the Services in accordance with the Agreement.

15. NO EXCLUSIVITY

- 15.1 The Parties acknowledge that this Agreement is non-exclusive and that either Party will be free, during and after the Term, to engage or contract with third parties for the provision of services similar to the Services.

16. NOTICES

- 16.1 All notices, requests, demands or other communications required or permitted by the terms of this Agreement shall be in writing signed by or on behalf of the Party giving it and shall, unless delivered to a Party personally, be left at, or sent by prepaid first class post or prepaid special delivery to the relevant Party's registered office address or as otherwise notified in writing to the other Party may from time to time notify the other.

17. INDEMNIFICATION

- 17.1 Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive indefinitely and will not end upon determination of this Agreement.
- 17.2 The Consultant will base the designs and advice it provides to the Client upon data received from the Client. The Consultant is not responsible for any errors in designs or advice resulting from poor or inaccurate data provision by the Client or its agents. This indemnification will survive indefinitely and will not end upon determination of this Agreement.
- 17.3 Ground Source Engineering Limited holds professional indemnity insurance, full details of which are available on request. Should the Client, or its agents, make any changes to Ground Source Engineering Limited designs without first obtaining the written agreement of Ground Source Engineering Limited, then any cover or warranty will be void and responsibility for that design will be transferred to the party who made the changes. In this instance that Party should ensure that it holds the required professional indemnity insurance policy to cover this responsibility.

18. MODIFICATION OF AGREEMENT

- 18.1 Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorised representative of each Party.

19. TIME OF THE ESSENCE

- 19.1 Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

20. ASSIGNMENT

- 20.1 The Consultant will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

21. ENTIRE AGREEMENT

- 21.1 It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

22. ENUREMENT

- 22.1 This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

23. TITLES AND HEADINGS

- 23.1 Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

24. GENDER

- 24.1 Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

25. GOVERNING LAW AND JURISDICTION

- 25.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 25.2. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in

connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

26. SEVERABILITY

- 26.1 In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

27. WAIVER

- 27.1 The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

Signed for and on behalf of
Ground Source Engineering Limited:

.....
(Signature)

.....
(Print full name)

Signed for and on behalf of
[full name of client]:

.....
(Signature)

.....
(Print full name)