

National Register Access Consultants

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Terms and conditions for the engagement of an access consultant or access auditor

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Foreword

The National Register of Access Consultants (NRAC), was established in 1999 to accredit access auditors and access consultants in the UK. The NRAC operates to the benefit of access auditors, consultants, users and clients.

The NRAC assists clients to locate auditors and consultants, free of charge. Clients select the profile of the access practitioner that they require, for example, an access auditor with personal experience of disability, and they will receive the contact details of all members who fit that profile. It also represents a quality standard for access auditors and access consultants.

The National Register of Access Consultants comprises appropriately qualified and experienced access consultants and auditors who have demonstrated their expertise in access matters to the satisfaction of the NRAC's Assessment Panel.

All members have agreed to abide by the NRAC's Codes of Practice and to practice only within the framework they provide. All Members must have professional indemnity insurance before they undertake work as an access consultant or access auditor.

Access consultants and auditors do not have to be members of the NRAC by law in order to practice. These Terms and Conditions are designed to be used when engaging an NRAC Consultant or NRAC Auditor. However, they may also be used when engaging an auditor or consultant who is not a member of the NRAC.

1 Introduction: summary of documents

- 1.1 The documentation required for the engagement of an access consultant or access auditor should comprise four set documents. These documents will be:
- project brief
 - project scope (scope of work)
 - terms and conditions
 - engagement agreement
- 1.2 The brief and scope of work will be specific to each project. The project brief will be prepared by the client and the scope of works will be produced through negotiations between the client and the access auditor or access consultant. Although these documents will be project specific, there are guidelines that should be followed when preparing these documents that are detailed in sections two and three
- 1.3 The documents contained herein will provide standard formats for the terms and conditions and the engagement agreement. These standard formats may be amended or adapted by agreement between the client and the access consultant or auditor

2 Project brief

- 2.1 the project brief should be a description of the project to be undertaken by the client. It will be an overview of the whole project, not only the work to be undertaken by the auditor/consultant
- 2.2 the level of detail should provide sufficient information relating to the project to be undertaken to enable the consultant/auditor to have an overview of the project as a whole and information specific to their role as an access auditor/consultant. The information should include:
 - 2.2.1 the nature of the project and the client's overall objectives. The client brief, which will form part of the project brief, will be produced by the client after discussions between the client and the auditor/consultant. It will define the access standards to which the work should be executed and the overall access policy of the client and the client's organisation. The auditor/consultant should explain the various alternatives and legal obligations to the client, particularly in relation to the Disability Discrimination Act 1995
 - 2.2.2 information relating to the property/land involved. This may include details of the property type, age, location, use and users. If plans are available they should be included
 - 2.2.3 a description of the works required. This will include any project specific details. The nature of the services provided by the access auditor/consultant will be included within the project scope. These documents may overlap. If so, it should be ensured that the information they contain does not conflict
 - 2.2.4 if or where applicable, the programme for the overall works. If a detailed programme is not available the anticipated programme should be provided
 - 2.2.5 if or where applicable, the composition of the project team and a description of the access consultant/auditor's role within the project team

- 2.2.6 if or where applicable, the budget figures, including whether VAT is included in that budget, for the project as a whole
 - 2.2.7 any information pertinent to the project that is not covered elsewhere in the documentation
- 2.3 if the project brief is altered during the works period it may affect the budget for the overall project and for the auditor/consultant's work. Methods of altering the overall works budget due to changes in scope may use the project brief as a basis for calculating variations in cost. Variations to the access auditor/consultant's work may be calculated using both the project brief and the project scope (scope of works). It is preferable to anticipate that variations may arise and include the preferred, agreed basis for calculating variations in scope and fees in the engagement agreement

3 Project scope (scope of works)

- 3.1 The project scope details the work to be carried out by the access consultant or access auditor as described in the project brief. An agreed schedule of works and detailed programme should be prepared
- 3.2 The different areas or stages in the schedule may be priced. This will assist in agreeing the value of any variations which may occur over the course of the project
- 3.3 The works that may be carried out by access consultants and access auditors vary and the scope of works must be prepared according to the level of advice that the practitioner can competently provide. The services that they may provide are defined as follows:
 - 3.3.1 access auditors are registered to undertake services that involve identifying access problems and may provide only general advice on solutions
 - 3.3.2 access consultants are registered to carry out access services that involve both problem identification and the provision of detailed and technical solutions. The solutions that they are registered to provide may include technical advice where building structure or construction is involved

3.4 Clients must decide, in conjunction with their auditor/consultant, which particular services they require. This will establish whether they require an access auditor or an access consultant. Examples of the work that each may undertake are:

3.4.1 **access auditors** - Problem-identifying skills are required for:

- audits relating to Part M of the Building Regulations
- brief preparation
- access inspections
- access policy advice
- audits and appraisals that include only general advice on solutions
- repeat audits as the Disability Discrimination Act 1995 evolves

3.4.2 **access consultants** - Problem-solving skills are required for:

- access audits with detailed solutions
- access appraisals with detailed solutions

Note: Access consultants are registered to undertake all access auditor work

3.5 The scope of works document may be prepared by either the client or the access auditor/consultant. Ideally, both the client and the auditor/consultant will work together to prepare the scope of works. A well-prepared scope of works document will minimise the likelihood of problems occurring during the project

4 Terms and conditions

4.1 Definitions

4.1.1 The 'Client' means the named person, organisation or company which has engaged the auditor/consultant to undertake access related services

4.1.2 'Auditor/Consultant' means the person, organisation or company engaged to undertake access related services

4.2 The Access Auditor/Consultant's obligations

4.2.1 The Auditor/Consultant shall execute his/her duties, as defined in the scope of works, with reasonable skill, care and diligence and perform his/her obligations faithfully and diligently and in accordance with the Client Brief. The Auditor/Consultant shall at all times consider the interests of the Client.

4.2.2 Auditors/Consultants shall carry out and complete the services within the period stated in the engagement agreement

4.2.3 Auditors/Consultants shall only undertake works that are within their field of expertise. If expertise beyond the Auditor/Consultant's knowledge is required, during the course of the works, the Auditor/Consultant shall inform the Client and advise the Client to engage the appropriate consultant

4.2.4 Auditors/Consultants may not sub-contract the works in whole or in part to a third party unless expressly agreed in writing with the Client

4.2.5 Auditors/Consultants' liabilities in relation to the duties performed shall be limited as follows:

- The Auditor/ Consultant shall use his/ her best endeavours when providing advice to enable the client to comply with the requirements of the Disability Discrimination Act 1995. The Auditor/ Consultant will interpret the requirements of the Act and the legislation to the best of his/her professional ability. Compliance

with the DDA cannot be guaranteed. Whilst the advice provided by the Auditor/ Consultant does not offer immunity from litigation under the DDA, it does present a case which shows that the client has taken reasonable measures to comply by commissioning an Auditor/ Consultant, and acting upon their advice.

- The Auditors/Consultant holds current professional indemnity insurance as set out in the engagement agreement. No liability shall attach to the Auditor/Consultant in respect of the duties executed except such liabilities as are covered by that insurance. The insurance policy may be inspected on request and the parties may agree additional cover where it is possible for the Auditor/Consultant to obtain insurance to meet that additional liability and the Client agrees to the cost involved
- The level of liability will usually be limited to the amount covered by the Auditor/Consultant's professional indemnity insurance (as stated in the engagement agreement). However, the parties may agree a higher level of liability where it is possible for the Auditor/Consultant to obtain insurance to meet that additional liability and the Client agrees to meet the cost involved
- The level of financial liability for which the Auditor/Consultant can be held responsible will be limited by agreement. The level of liability must not exceed the amount covered by the Auditor/Consultant's professional indemnity insurance. This sum is stated in the engagement agreement. The engagement agreement will stipulate the excess sum on the Auditor/Consultant's insurance policy

4.3 The Client's obligations

- 4.3.1 The Client will provide the Auditor/Consultant with all relevant information to enable him/her to execute his/her duties
- 4.3.2 The Client will provide the Auditor/Consultant with reasonable access to the premises that are being assessed
- 4.3.3 The Client will co-operate fully with the Auditor/Consultant
- 4.3.4 The Client will respond promptly to requests for additional information

4.4 Payment for the auditor/consultant's services

- 4.4.1 Payment schedules and methods may be agreed through negotiations between the Auditor/Consultant and the Client. Payments may be related to time periods, milestones or completion of the works. Clients will be invoiced by the auditor/consultant in accordance with the agreed method. The method of payment will be included in the engagement agreement with the agreed method for calculation of variations to the project brief/budget
- 4.4.2 The payment of invoiced moneys due to the Auditor/Consultant shall be paid within 30 days from the date of receipt of the invoice by the Client unless otherwise agreed in writing
- 4.4.3 In the event of a disagreement over invoiced sum due, the Client must inform the Auditor/Consultant of the disputed sum, in writing, within 10 working days and provide a statement of the reasons for withholding the amount. Only disputed sums may be withheld and payment of undisputed, invoiced sums should be made, within the stated 30 days, even if this is only part payment of an invoice
- 4.4.4 In the event of moneys being withheld that are not disputed, the Auditor/Consultant may suspend his/her services until the moneys due are paid in full. The Auditor/Consultant must inform the Client of this action seven days prior to suspending his/her services
- 4.4.5 The Auditor/Consultant's right to suspend his/her services under clause 4.4.4 shall cease when the Client makes payment in full on the moneys due
- 4.4.6 In the event that invoiced amounts are not paid by the final date for payment the Consultant / Auditor may in his discretion recover statutory interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.4.7 Disputes and deductions must be strictly in accordance with the terms of the contract unless expressly agreed between the Client and the Auditor/Consultant. If a dispute remains unresolved for over 28 days the parties will appoint an Arbitrator, who is acceptable to both parties, to resolve the dispute

4.4.8 The fees contained within the scope of works and the engagement agreement should specify the inclusion or exclusion of expenditure relating to:

- reasonable travel and hotel expenses, (including mileage for car travel at a specified rate)
- postage/courier charges
- obtaining copies of plans
- any other fees or expenses which the Client may authorise by written agreement
- VAT

4.4.9 The contract scope may be subject to variations including omissions, alterations and additions providing that both parties agree in writing to the variation. If a variation to the scope of works results in a change in the contract value the financial implications will be calculated using the original project brief and scope of works as a basis

4.4.10 An hourly rate should be included in the engagement agreement for the valuation of additional works that cannot reasonably be valued using the original scope of works or project as a basis

4.4.11 Payment of agreed fees/reimbursements that are not included within the contract sum shall be by invoice, substantiated by the submission of timesheets and/or receipts, as appropriate

4.4.12 Where the Auditor/Consultant's fees are expressed as a percentage of total project costs, that total shall include:

- adjustments consequent upon variations and fluctuations
- expenditure of provisional, prime cost sums, or contingencies
- value of materials, labour or services provided by the Client free of charge

but shall exclude the value of any loss and expense claims

4.4.13 All fees are exclusive of VAT

4.5 Insurance

- 4.5.1 The Auditor/Consultant shall provide the Client with evidence that they hold the level of professional indemnity insurance referred to in the engagement agreement. This should be done by the production of a valid certificate of insurance by the Auditor/Consultant for the Client
- 4.5.2 The insurer providing the professional indemnity insurance for the Auditor/Consultant shall be an insurer of repute in respect of the Auditor/Consultant's business generally
- 2.2.1 The Auditor/Consultant must maintain the professional indemnity for at least six years after the completion of the project

4.6 Confidentiality

- 4.6.1 The Auditor/Consultant agrees to treat as secret and confidential and not at any time for any reason to disclose or permit to be disclosed to any person or otherwise make use of or permit to be made use of any information in relation to the Client's technology, technical process, business affairs or finances or any such information relating to a subsidiary, supplier, customer or client of the Client where knowledge or details of the information was received during the period of this agreement except so far as is necessary for performing his or her duties under this agreement. Upon termination of this agreement, for whatever reason, the Auditor/Consultant shall return all documentation and materials supplied by the Client under the contract to the Client

4.7 Communications between the Client and the Auditor/Consultant

- 4.7.1 The Client shall inform the Auditor/Consultant, in writing, of any alterations in the membership of the project team during the course of the project. The contact details of the new representative will be forwarded promptly to the Auditor/Consultant
- 4.7.2 Any variations to the scope of works must be agreed through negotiations between the Client and the Auditor/Consultant and confirmed in writing

4.7.3 The Client shall promptly inform the Auditor/Consultant of any decision or information held by the Client necessary for the proper performance of the Auditor/Consultant's services

4.7.4 The formal addresses to which correspondence should be sent will be agreed in writing prior to commencement of the contract. If there are any changes to these addresses during the course of the contract, all parties will be notified in writing of the changes within seven working days

4.8 Notice

4.8.1 Any notice required by this agreement to be given by either party to the other shall be in writing and shall be served by sending the same by registered post or recorded delivery to the last known address of the other party and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting such a notice

4.9 Suspension or termination of the contract

4.9.1 Either party shall be entitled to terminate the contract if:

- the other party is in breach of this contract for a period exceeding 30 days after the breach has been communicated in writing to him or her
- the other party is declared bankrupt, has a receiving order made against them, makes any arrangement with his/her creditors, enters into liquidation whether compulsory or voluntary, (other than a voluntary liquidation for the purpose of amalgamation or reconstruction), or has a receiver appointed in respect of any of his/her assets

4.9.2 The Client may not terminate the Agreement solely for the reason of the Auditor/Consultant's absence through illness or injury unless such illness or injury prevents the Auditor/Consultant providing any services to the Client for a consecutive period of six weeks or for an aggregate period of eight weeks in any period of 12 calendar months

4.10 Copyright

4.10.1 The Auditor/Consultant shall retain the copyright in and ownership of all reports and other documents presented to the Client under the contract. The Clients may not make any alterations to any reports or other documentation prepared by the Auditor/Consultant without prior consent in writing from the Auditor/Consultant. Any alteration that the Client wants to make to the documentation, must be reviewed by the Auditor/Consultant and all changes must be expressly agreed in writing by the Auditor/Consultant

4.10.2 The Auditor/Consultant may, with written permission of the Client, use copies of the report for agreed purposes after the submission of the documentation. Any documentation that is used for these purposes will be edited to protect the identity of the Client and to remove any commercially sensitive information contained within. Such agreed purposes may include training or the production of sample reports to demonstrate the style and format of the documentation that the Auditor/Consultant produces

4.11 Assignment

4.11.1 The Client may only assign the benefit of this agreement with the permission of the Auditor/ Consultant which permission shall not be unreasonably withheld or delayed. The number of possible assignments shall in any case be limited to no more than two.

4.11.2 The Auditor/Consultant may assign the benefit of the agreement but not the burden

4.12 Laws, regulations and bye-laws

4.12.1 The Auditor/Consultant shall observe and comply with all statutes, regulations, bye laws and regulations of local, statutory and other services

4.13 Third party rights

4.13.1 Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any terms of this Agreement.

5 Engagement agreement

Project title:

Parties

Client name Client address	
Company number	
VAT registration number	

Auditor/Consultant name Auditor/Consultant address	
Company number	
VAT registration number	

Project value

Commencement date for project

Completion date for project

Level of professional indemnity cover
required to be held by the Auditor/
Consultant

The NRAC *Terms and conditions for the engagement of an access consultant or access auditor* shall be deemed to be included in this agreement.

Signed
(on behalf of the client)

.....

Print name

.....

Date

Signed
(on behalf of the auditor/consultant)

.....

Print name

.....

Date

Schedules

- | | |
|----------------|-----------------------------------|
| Schedule one | Project brief |
| Schedule two | Scope of works |
| Schedule three | Method of payment |
| Schedule four | Method for calculating variations |