

National Register  Access Consultants

**Terms and Conditions for the Engagement of an
Access Consultant or Access Auditor**

NRAC 2012

(Effective from the 1st February 2012)

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Section A

A1 Introduction

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A1 Introduction

The National Register of Access Consultants (NRAC) is a valuable and freely available resource for anyone wishing to appoint an experienced and competent access and inclusion professional.

Established in 1999, the NRAC is a UK-wide organisation working to assist and benefit those operating in the public and private sectors who commission, develop, design, manage and use the built environment.

The NRAC comprises qualified and experienced Consultants and Auditors who have demonstrated their knowledge and expertise in written submissions and an interview.

Membership of the NRAC denotes a high level of competence and understanding of accessibility and inclusion issues and the engagement of an NRAC member is widely endorsed by a number of organisations and local authorities, and recommended in government publications.

The Terms and Conditions described below are designed to assist the process of engaging an NRAC Access Consultant or Access Auditor.

A2 Selecting an NRAC Consultant or Auditor

For those wishing to appoint an NRAC Consultant or Auditor and to develop the documents related to such an appointment, it is important to be able to clearly identify the services and range of competent advice needed.

Services offered by NRAC members may be defined as follows:

- Auditors are registered to undertake services that involve identifying and reporting on access issues and offering general advice on solutions. The work usually undertaken by an NRAC Auditor includes:
 - o Access audits;
 - o Design appraisals;
 - o Preparation of project briefs;
 - o Access policy advice;
 - o Audit updates;
 - o Training in issues relating to user needs and access and inclusion.

- Consultants are registered to undertake all the services offered by an Auditor but also to provide in-depth practical advice and guidance on detailed solutions. This includes advice on the spatial, technical and legal implications associated with the design, management and use of inclusive, accessible built environments and associated spaces.

NRAC Consultant and Auditor members are required to abide by the NRAC's 'Code of Practice' and to operate only within the framework they provide. All members must have professional indemnity insurance before they undertake consultancy or auditor work. NRAC Consultants and Auditors must also undertake continuing professional development (CPD) and evidence of CPD and having current indemnity insurance cover are fundamental requirements for annual renewal of membership.

A 'Client's Guide', the members 'Code of Practice' and details of NRAC registered members together with brief résumés of their individual experiences and interests are available on www.nrac.org.uk

A3 Summary of Recommended Documents for Engagement

The NRAC recommends that the documentation required for the engagement of an Access Consultant or Access Auditor should comprise four parts. These are the:

- Project Brief
- Project Scope
- Terms and Conditions of Engagement
- Engagement Agreement

Part A of this document offers detailed information and recommendations on the preparation and content of a Project Brief and Project Scope.

To assist in the appointment of an NRAC Consultant or Auditor suggested models for the Terms and Conditions of Engagement and an Engagement Agreement are included in Part B. These may however need to be amended or adapted to suit particular situations or projects.

A3.1 Project Brief

The Project Brief will in most cases be project specific. It will usually be developed by the client and should include an overview of the whole project, the aims and objectives, and a clear description of the client's requirements and expectations. It should also include a description of work to be undertaken by the NRAC Consultant or Auditor.

The level of detail within the Project Brief should be sufficient to enable the NRAC Consultant or Auditor to clearly identify the role required by the client.

The information contained in a Project Brief should contain for example:

- a) The nature of the project and the client's overall objectives;
- b) The access standards to be adopted;
Note: This may include reference to relevant Buildings Regulations, British Standards, other accessibility guidance or standards, or legislation;
- c) Any access policy adopted by the client and/or the client's organisation;
- d) Details of any health and safety requirements or conditions;
- e) Information, if available, relating to the property or land involved;
Note: This may include details of the property type, age, location, use and users. If plans are available they could also be included;
- f) A description of the works required.
Note: This should include any project specific details;
- g) A detailed or anticipated programme for the overall works;
- h) If applicable, the composition of the full project team and a description of the access consultant/auditor's role within that team;
- i) Budget figures for the whole project, including whether VAT is included budget;
- j) Any additional information pertinent to the project that is not covered elsewhere in the documentation. This might include, for example, listed building status, community involvement etc.

If the project brief is altered before or during the period of work this may affect the budgets for the overall project and for the NRAC Consultant/Auditors work. The Project Brief and Project Scope can help in calculating any variations. It is preferable however, to anticipate that variations are likely to arise and to include an agreed basis for calculating variations in scope and fees before work commences.

A3.2 Project Scope

The Project Scope can be prepared by either the client or their NRAC Consultant or Auditor. A well-prepared Project Scope will minimise the likelihood of problems occurring during the project.

The Project Scope should develop from discussions and negotiations between the client and the NRAC Consultant or Auditor and identify the works and services that are required.

It should clearly detail the work to be carried out by the NRAC Consultant or Auditor to satisfy the Project Brief and should be accompanied by an agreed **Schedule of Works** and a detailed **Programme of Activities**

To assist in calculating any variations as work proceeds, the Schedule of Works should include agreed fees against each programmed activity. Even if costs don't change, the work undertaken by an NRAC Consultant or Auditor may vary throughout the duration of a project from that originally agreed. The Project Scope should be flexible enough to allow for this.

Section B

- 1.0 Terms and Conditions for the Engagement of an Access Consultant or Access Auditor**
- 2.0 Engagement Agreement**
- 3.0 Supporting Schedules**

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**Terms and Conditions for the Engagement of an
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1.0 Terms and Conditions

1.1 Definitions

- 1.1.1 The 'Client' means the named person, organisation or company which has engaged the Consultant/Auditor to undertake access related services.
- 1.1.2 'Consultant/Auditor' means the person, organisation or company engaged to undertake access related services.

1.2 The Access Consultant/Auditor's Obligations

- 1.2.1 The Consultant/Auditor shall execute his/her duties, as defined in the Project Scope, with reasonable skill, care and diligence and perform his/her obligations faithfully and diligently and in accordance with the Client's Project Brief. The Consultant/Auditor shall use his/her best endeavours to promote the interests of the Client.
- 1.2.2 Auditors/Consultants shall carry out and complete the services within the period stated in the Engagement Agreement.
- 1.2.3 Auditors/Consultants shall only undertake works that are within their field of expertise. If expertise beyond the Consultant/Auditor's knowledge is required, during the course of the works, the Consultant/Auditor shall inform the Client and advise the Client to engage the appropriate consultant.
- 1.2.4 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.
- 1.2.5 Auditors/Consultants' liabilities in relation to the duties performed shall be limited as follows:
- Compliance with advice provided by the Consultant/Auditor does not ensure compliance with the requirements of the Equality Act 2010. The Consultant/Auditor does not accept any responsibility for loss occasioned by reason of non-compliance with the Equality Act 2010.
 - The Consultant/Auditor holds current professional indemnity insurance as set out in the Engagement Agreement. No liability shall attach to the Consultant/Auditor in respect of the duties executed except such

liabilities as are covered by that insurance. The insurance policy may be inspected on request.

- The level of liability will usually be limited to the amount covered by the Consultant/Auditor's professional indemnity insurance as set out in the Engagement Agreement. However, the parties may agree a higher level of liability. Where it is possible for the Consultant/Auditor to obtain insurance to meet that additional liability the Client agrees to meet the cost involved.
- The level of financial liability for which the Consultant/Auditor can be held responsible will be limited by agreement. The level of liability must not exceed the amount covered by the Consultant/Auditor's professional indemnity insurance. This sum is stated in the Engagement Agreement. The Engagement Agreement will stipulate the excess sum on the Consultant/Auditor's insurance policy.

1.3 The Client's Obligations

- 1.3.1 The Client will provide the Consultant/Auditor with all relevant information to enable him/her to execute his/her duties.
- 1.3.2 The Client will provide the Consultant/Auditor with reasonable access to the premises that are being assessed.
- 1.3.3 The Client will co-operate fully with the Consultant/Auditor.
- 1.3.4 The Client will respond promptly to requests for additional information.

1.4 Payment for the Consultant/Auditor's Services

- 1.4.1 Payment schedules and methods may be agreed through negotiations between the Consultant/Auditor and the Client. Payments may be related to time periods, milestones or completion of the works. Clients will be invoiced by the Consultant/Auditor 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/Project Scope/Budget.
- 1.4.2 The payment of invoiced moneys due to the Consultant/Auditor shall be paid within 30 days from the date of receipt of the invoice by the Client unless otherwise agreed in writing.
- 1.4.3 In the event of a disagreement over invoiced sum due, the Client must inform the Consultant/Auditor of the disputed sum, in writing, within ten 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.

- 1.4.4 In the event of moneys being withheld that are not disputed, the Consultant/Auditor may suspend his/her services until the moneys due are paid in full. The Consultant/Auditor must inform the Client of this action seven days prior to suspending his/her services.
- 1.4.5 The Consultant/Auditor's right to suspend his/her services under clause 1.4.4 shall cease when the Client makes payment in full on the moneys due.
- 1.4.6 The Consultant/Auditor reserves the right to charge interest of 8 per cent over base rate per month on unpaid sums due under this agreement.
- 1.4.7 Disputes and deductions must be strictly in accordance with the terms of the contract unless expressly agreed between the Client and the Consultant/Auditor. 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.
- 1.4.8 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 (where applicable).
- 1.4.9 The Project 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 Project Scope 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.
- 1.4.10 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.

1.4.11 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.

1.4.12 Where the Consultant/Auditor'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.

1.4.13 All fees are exclusive of VAT.

1.5 Insurance

1.5.1 The Consultant/Auditor 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 Consultant/Auditor for the Client:

- The insurer providing the professional indemnity insurance for the Consultant/Auditor shall be an insurer of repute in respect of the Consultant/Auditor's business generally.
- The Consultant/Auditor must maintain the professional indemnity for at least six years after the completion of the project.

1.6 Confidentiality

The Consultant/Auditor 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 Consultant/Auditor shall, if requested, return all documentation and materials supplied by the Client under the contract to the Client.

1.7 Communications between the Client and the Consultant/Auditor

1.7.1 The Client shall inform the Consultant/Auditor 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 Consultant/Auditor:

- Any variations to the scope of works must be agreed through negotiations between the Client and the Consultant/Auditor and confirmed in writing.
- The Client shall promptly inform the Consultant/Auditor of any decision or information held by the Client necessary for the proper performance of the Consultant/Auditor's services.
- 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.

1.8 Notice

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.

1.9 Suspension or termination of the contract

1.9.1 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.

1.9.2 The Client may not terminate the Agreement solely for the reason of the Consultant/Auditor's absence through illness or injury unless such illness or injury prevents the Consultant/Auditor 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.

1.10 Copyright

The Consultant/Auditor 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 Consultant/Auditor without prior consent in writing from the Consultant/Auditor. Any alteration that the Client

wants to make to the documentation must be reviewed by the Consultant/Auditor and all changes must be expressly agreed in writing by the Consultant/Auditor:

- The Consultant/Auditor 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 Consultant/Auditor produces.

1.11 Assignment

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

1.12 Laws, regulations and bye-laws.

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

2.0 Engagement Agreement

| | |
|----------------------|--|
| Project Title | |
|----------------------|--|

| | |
|-------------------------|--|
| Client Details | |
| Client Name | |
| Client Address | |
| Company Number | |
| VAT Registration Number | |

| | |
|-----------------------------|--|
| Consultants Details | |
| Consultant/Auditor Name | |
| Consultant/ Auditor Address | |
| Company Number | |
| VAT Registration Number | |

| | |
|---|---|
| Project Details | |
| Project Value | £ |
| Agreed Start Date | |
| Agreed Completion Date | |
| Level of Professional Indemnity Insurance held by the Consultant/Auditor. | £ |
| Excess | £ |

| | |
|---|--|
| 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) | Signed (on behalf of the Consultant/Auditor) |
| | |
| Print Name | Print Name |
| | |
| Date | Date |

3.0 Supporting Schedules

The following Schedules accompany and form part of the Engagement Agreement:

| Supporting Schedules | | | |
|----------------------|-----------------------------------|---------------|----|
| Schedule Number | Document Title | Please Circle | |
| Schedule 1 | Project Brief | Yes | No |
| Schedule 2 | Project Scope | Yes | No |
| Schedule 3 | Schedule of Works | Yes | No |
| Schedule 4 | Programme of Activities | Yes | No |
| Schedule 5 | Method of Payment | Yes | No |
| Schedule 6 | Method for Calculating Variations | Yes | No |

End