



Services Fee Agreement

v1.0

(September 2024)

Construction Industry Dispute Avoidance and Resolution Limited
Brynderi
Cwmgwili
Dyfed SA14 6PP
cindar.co.uk



Part 1 - Agreement

This Agreement is made between Construction Industry Dispute Avoidance and Resolution Limited (Company Number 13345368) and whose registered office is at Brynderi, Cwmgwili, Dyfed SA14 6PP (CINDAR) and the person, firm, company or organisation (Client) identified in the Estimate, Quotation or Proposal (as the case may be) attached as Part 2 to this Agreement.

1. Definitions

In this Agreement, the following terms and phrases shall have the following meaning unless the context requires otherwise:

- “Agreement” means the terms and conditions comprising this Agreement.
- “Director” means a Director for the time being of CINDAR.
- “Services” means the services set out in the Estimate, Quotation or Proposal (as the case may be) attached as Part 2 to this Agreement.

2. Appointment

- 2.1. With effect from the date this Agreement is signed by or on behalf of the Client (Commencement Date), the Client appoints CINDAR to perform the Services.
- 2.2. A Director will be primarily responsible for the Services but the Director has the complete discretion to deploy the services of CINDAR employees and consultants, as the Director deems necessary.

3. Duties

- 3.1. CINDAR agrees:
- 3.1.1. To undertake and provide the Services in accordance with instructions provided by the Client and as described in the Estimate, Quotation or Proposal (as the case may be).
- 3.1.2. To manage and carry out the Services using reasonable skill and care.
- 3.1.3. To promptly comply with all lawful and proper requests which may from time to time be given by the Client, and the Client shall pay any additional costs incurred in such compliance.
- 3.1.4. Not to undertake any additional activities or accept other engagements which lead or might lead to any conflict of interest between CINDAR and the interests of the Client during CINDAR’s appointment.
- 3.1.5. To keep the Client informed of progress on the Services in which it is engaged.

4. Fees

- 4.1. The fees for the Services will be those set out in the Estimate, Quotation or Proposal (as the case may be) attached as Part 2 to this Agreement.



- 4.2. Where necessary, Value Added Tax (VAT) will be added the rate prevailing on the Commencement Date.

5. Invoices and payment

- 5.1. Where the Services are fixed fee services, CINDAR will issue an invoice at the end of the month during which the Services are provided and the Client shall pay the invoice within 14 calendar days of the date of invoice.
- 5.2. If the Services are based on an hourly or daily rate, CINDAR will issue an invoice on the last working day of each month until the Services end in accordance with this Agreement and the Client shall pay each invoice within 14 calendar days of the date of the invoice.
- 5.3. Notwithstanding clause 5.2, CINDAR will invoice the Client on completion of the Services and the Client shall pay the invoice within 14 calendar days of the date of the invoice.
- 5.4. If the Client is late in paying fees due, CINDAR may impose late payment interest at the rate of 8% per annum calculated daily,

6. Expenses

- 6.1. CINDAR shall be entitled to be reimbursed by the Client for all out of pocket expenses and disbursements wholly, exclusively and properly incurred in the performance of the Services subject to CINDAR providing the Client with vouchers, receipts or other evidence of actual payment of such expenses.
- 6.2. Where CINDAR personnel visit sites or attend meetings in person at Client offices or elsewhere, then mileage shall be charged at the rate of 45p/mile measured between CINDAR's registered office and the location of such site or the location where the meeting was held.

7. Confidentiality

- 7.1. CINDAR hereby acknowledges that during the course of its appointment under this Agreement, it is likely to obtain knowledge of trade secrets and other confidential information with regard to the business and financial affairs of the Client and those of the Client's clients, customers and suppliers details of which are not in the public domain (Confidential Information) and accordingly CINDAR hereby undertakes and covenants with the Client that:
 - 7.1.1. CINDAR shall not at any time after the Termination Date (for Termination Date, see below) use or procure the use of the name of the Client in connection with CINDAR in any way calculated to suggest that CINDAR continues to be connected with the business of the Client or in any way hold itself out as having such connection;
 - 7.1.2. CINDAR shall not use the Confidential Information other than during the continuance of this Agreement and in connection with the provision of the Services; and



- 7.1.3. CINDAR shall not at any time after the date of this Agreement (save as required by law) disclose or divulge to any person other than officers or employees of the Client whose province it is to know the same any Confidential Information and CINDAR shall use its reasonable endeavours to prevent the publication or disclosure of any Confidential Information by any other person.

8. The Client's Property

- 8.1. Upon the expiration or termination of its appointment under this Agreement for whatever cause, CINDAR shall forthwith deliver up to the Client or its authorised representative all property, including equipment, materials, tools, keys, swipe cards, computer hardware and/or software, documents, account records and any other papers which may be in CINDAR's possession, custody or control and which are the property of the Client or which otherwise relate to the business or affairs of the Client and no copies of the same or any part thereof shall be retained by CINDAR, except by agreement.

9. Termination of Agreement

- 9.1. This Agreement will terminate, and final payment will become due pursuant to clause 5, when the work has been completed and delivered to the Client (Termination Date).
- 9.2. Prior to the Termination date, the Client shall have the right at any time to terminate this Agreement by giving not less than 14 calendar days' notice in writing to CINDAR.
- 9.3. Prior to the Termination Date, CINDAR has an unfettered right to terminate this Agreement without cause and with immediate effect of a written notice being provided to the Client.
- 9.4. The Client shall have the right to terminate this Agreement at any time by summary notice and without further payment in the event CINDAR:
 - 9.4.1. Is in material or persistent breach of any the terms of this Agreement;
 - 9.4.2. Has a bankruptcy order made against it or makes any arrangement with its creditors or has an interim order made against it;
 - 9.4.3. Is convicted of any corporate offence;
 - 9.4.4. Persistently and wilfully neglects or becomes incapable of performing the Services;
 - 9.4.5. Does any action manifestly prejudicial to the interests of the Client and which may bring the Client into disrepute,

10. Indemnity

- 10.1. The Client hereby indemnifies and holds harmless CINDAR for any direct or indirect loss, damage, expense, cost (including solicitor's costs), death or injury caused by the negligence, wilful misconduct or breach of contract by the Client, its directors, officers or employees.



11. Limit of Liability

- 11.1. Except to the extent CINDAR causes death or injury, CINDAR's liability under this Agreement for negligence or breach of contract shall be limited to the value of this Agreement.
- 11.2. Notwithstanding any other provision in this Agreement, CINDAR will not be liable to the Client for any consequential, special, indirect or exemplary damages, costs or losses, or any damages, costs or losses to profits or opportunities.

12. Insurance

- 12.1. During the term of this Agreement, CINDAR will maintain professional indemnity insurance against claims or liabilities arising out of its performance of this Agreement. The policy of insurance shall be with a reputable insurer and CINDAR shall produce a copy of the certificate of currency on written request from the Client.

13. Data Protection

- 13.1. The Client and CINDAR agree to comply with the Data Protection Act 2018 implementing GDPR and all personal data will be collected, processed and held accordingly.
- 13.2. For details of CINDAR's collection, processing, storage and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using its rights and how to exercise them, and personal data sharing (where applicable), please refer to CINDAR's Privacy Policy at <https://cindar.co.uk/privacy-policy.html>.

14. Consumer Rights Act 2015

- 14.1. **This clause 14 relates only to the relationship between CINDAR and the Client when the Client is a consumer (and see Appendix I).**
- 14.2. As a consumer, the Client has certain legal rights with respect to the purchase of the Services. For full details of the Client's legal rights and guidance on exercising them, it is recommended that the Client contacts its local Citizens Advice Bureau or Trading Standards Office. For the avoidance of doubt, Small Self Administered Schemes (SSAS) are considered to be business to business transactions.
- 14.3. If CINDAR does not perform the Services with reasonable skill and care, the Client has the right to request repeat performance or, if that is not possible or done within a reasonable time without inconvenience to the Client, the Client has the right to a reduction in price.
- 14.4. If the Services are not performed in line with information that CINDAR has provided about them, the Client also has the right to request repeat performance or, if that is not possible or done within a reasonable time without inconvenience to the Client (or if CINDAR's breach concerns information about CINDAR that does not relate to the performance of the Services), the Client has the right to a reduction in price.



- 14.5. If for any reason CINDAR is required to repeat the Services in accordance with the Client's legal rights, CINDAR will not charge the Client for the same and CINDAR will bear any and all costs of such repeat performance.
- 14.6. In cases where a price reduction applies, this may be any sum up to the full Fee and, where the Client has already made payment(s) to CINDAR, may result in a full or partial refund. Any such refunds will be issued without undue delay (and in any event) within 30 calendar days) starting on the date on which CINDAR agrees that the Client is entitled to the refund) and made via the same payment method originally used by the Client.

15. Notices

- 15.1. For the purposes of this Agreement, all notices must be in writing and sent by post or via CINDAR's Help Desk (<https://cindar.co.uk/kb/index.php?a=add>). With the exception of invoices issued pursuant to Clause 5 of this Agreement, notwithstanding the medium of delivery, all notices will be deemed to have been delivered on the date received by the recipient.

16. Entire Agreement

- 16.1. This Agreement contains the entire agreement and understanding of the parties relating to the subject matter of this Agreement and extinguishes all previous agreements, promises, assurances, warranties, representations and understanding between the parties, whether written or oral.
- 16.2. For certainty, the terms and conditions and terms of sale contained on CINDAR's web site do not apply to this Agreement.

17. Force Majeure

- 17.1. If either party to this Agreement is prevented or delayed in the performance of any of its respective obligations under this Agreement by "force majeure", then such party shall be excused the performance for so long as the cause of prevention or delay shall continue.
- 17.2. For the purposes of this Agreement "force majeure" shall be deemed to be any cause affecting the performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of such party and inter alia including but not limited to:
 - 17.2.1. Strikes, lockouts or other industrial action;
 - 17.2.2. Terrorism, civil commotion, riot, invasion, war threat or preparation for war;
 - 17.2.3. Fire, explosion, storm, flood, earthquake, subsidence, epidemic, bad weather or other natural physical disaster;
 - 17.2.4. Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
 - 17.2.5. Political interference with normal operations;



17.2.6. Epidemic or pandemic having the effect of causing part or whole of the population in England and Wales to “lockdown”.

18. Survival of causes of action

18.1. The termination of this Agreement, howsoever occurring, shall not affect the rights and liabilities of the parties already accrued at such time nor affect the continuance in force of such of its provisions as are expressed as or capable of having effect after termination.

19. Severability

19.1. If a Court of competent jurisdiction holds any provision of this Agreement invalid, illegal or unenforceable for any reason, such provision shall be severed and the remaining provisions of this Agreement shall continue in full force and effect as if this Agreement had been executed with the illegal or unenforceable provision eliminated.

20. Waiver

20.1. Failure of any party to insist on strict performance of any provision of this Agreement or the failure of any party to exercise any right or remedy to which it is entitled hereunder shall not constitute a waiver thereof and shall not cause a diminution of the obligations under this Agreement.

20.2. No waiver of any of the provisions of this Agreement shall be effective unless it is expressly stated to be such and signed by all parties to this Agreement.

21. Law and Jurisdiction

21.1. The laws of England and Wales govern this Agreement and the parties submit to the jurisdiction of the Courts of England and Wales.

21.2. Any dispute arising out of or under this Agreement shall be mediated if the parties so agree prior to any litigation arising.



Part 2 –Proposal

See attached Scope of Services and Deliverables.

I/We accept Proposal No: _____ dated _____ including the Scope of Services and deliverables referred to therein.

Signed for and on behalf of
CONSTRUCTION INDUSTRY DISPUTE AVOIDANCE AND RESOLUTION LIMITED by
its authorised representative:

Douglas Beckwith
Director

Signed for and on behalf of

_____ by
its authorised representative

Signed: _____

Name: _____

Position: _____

Date: _____ 20

Notice to Consumers: Please tick below if you wish CINDAR to commence the Services within the statutory 14 day cancellation period.



Appendix I – Model Cancellation Form

Cancellation

Where this Agreement is made between CINDAR and a consumer in their own home or place of business:

- a) The Client can cancel this Agreement for any reason by giving CINDAR notice in writing within 14 days of signing this Agreement.
- b) To exercise the right to cancel, the Client must inform us (CINDAR, Brynderi, Cwmgwili, Dyfed SA14 6PP. Email: accounts@cindar.co.uk) of your decision to cancel this Agreement by clear statement (e.g., a letter sent by post, email or using our Help Desk). You may use the attached cancellation form but it is not obligatory.
- c) To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.
- d) If the Client gives notice of cancellation, CINDAR will, subject to paragraph (f) below, refund any monies paid by the Client to CINDAR.
- e) Where the Client has indicated for CINDAR to commence the Services within the 14 day cancellation period but then seeks to cancel the Services, the Client may have to pay for the Services provided up to the date of cancellation including any administration costs incurred by CINDAR).
- f) If the Client cancels this Agreement, any related credit agreement (for example, a credit agreement that CINDAR had provided or arranged in connection with this Agreement) will automatically be cancelled.

Cancellation Form

If you want to cancel the Agreement, you must do so in writing and deliver or send it to Douglas Beckwith, CINDAR at the address or by the means stated in paragraph (b) above.

To Mr Douglas Beckwith, CINDAR.

I wish to cancel my Agreement.

Order No (if applicable): _____ or

Ticket No (if available): _____

Project Name: _____

Agreement dated: _____ 20

Service Product (inc code): _____

Client Signature: _____

Name and Address: _____

Date: _____ 20