

## **TERMS & CONDITIONS OF CONTRACT**

### **1. DEFINITIONS**

- 1.1 Cheshire Woodlands shall be referred to as 'the Company'
- 1.2 The 'customer' or 'instructing party' shall mean the person, company or organisation to whom the Company supplies services

### **2. EXISTENCE OF CONTRACT**

- 2.1 No contract shall come into existence unless the customer's order however given is accepted by the earliest of
  - 2.1.1 acceptance in writing by the Company
  - 2.1.2 performance by the Company of the service required by the customer
  - 2.1.3 an invoice issued by the Company
- 2.2 These conditions shall be incorporated into the contract to the exclusion of any terms or conditions stipulated or referred by the customer
- 2.3 No variations or amendments of this contract shall be binding upon the Company unless confirmed by the Company in writing

### **3. FEES**

- 3.1 Fees shall be charged at
  - 3.1.1 an hourly rate as notified by the Company to the customer, orally or in writing
  - 3.1.2 a fixed price as notified by the Company to the customer for which a customer's order shall only be accepted when given in writing
- 3.2 There shall be payable in addition to fees charged at the hourly rate the out of pocket expenses including travelling expenses and the services of others incurred by the Company in the performance of the contracted services
- 3.3 Time shall be charged to and from the Company offices
- 3.4 Unless any other arrangements have been explicitly agreed in writing with the customer all charges due to the Company shall be payable upon receipt of monthly invoices or within the period stated on the invoice (the due date). In certain cases i.e. reports for mortgage purposes, a report will not be released until final payment has been received.
- 3.5 All reports, written advices, plans, other documentation and goods supplied shall remain the property of the Company until payment for all services, documents and goods has been received by the Company.
- 3.6 Time for payment shall be of the essence of the contract without prejudice to any other rights of the Company if the customer fails to pay the invoice price by the due date the customer shall not be allowed any discount given in that invoice and shall pay interest on any overdue amount from the date on which payment became due to that on which it is made whether before or after judgement on a daily basis and at a compound rate of 2% per calendar month. The customer shall be liable for payment to the Company of all costs incurred in the recovery of any overdue amount

### **4. ARBITRATION**

- 4.1 Should a customer dispute any charge made by the Company in respect of work carried out then that dispute shall be determined by an arbitrator of the Institute of Arbitrators

### **5. LIABILITY**

- 5.1 Services undertaken and reports submitted by the Company shall be for the benefit of the customer alone. No liability shall attach to the Company or consultant employed by the Company for loss or damage sustained by any third party unless the interest of that third party shall have been communicated in writing to the Company prior to the making of the contract or the delivery of the services as the case may be

### **6. GENERAL**

- 6.1 The Company may sub-contract the performance of the contract in whole or in part unless otherwise requested by the customer prior to the making of a contract
- 6.2 The contract is between the Company and the customer as principles and shall not be assignable by the customer without the express written consent of the Company
- 6.3 The Company shall have lien on all the customer's property in its possession for all sums due at any time from the customer and shall be entitled to use sell or dispose of that property as agent for and at the expense of the customer and apply the proceeds in and towards the payment of sums on 28 days' notice in writing to the customer. Upon accounting to the customer for any balance remaining after payment of any sums due to the Company and costs of sale or disposal the Company shall be discharged of any liability in respect of the customer's property
- 6.4 The Company may at its discretion suspend or terminate the supply of services if the customer fails to make any payment when and as due or otherwise defaults in any of its obligations under the contract or any other agreement with the Company or becomes bankrupt insolvent has a receiver appointed of its business or is compulsorily or voluntarily wound up or become the subject of a bankruptcy order or the Company bona fide believes that any of those events may occur and in the case of termination shall be entitled to forfeit any deposit paid

### **7. FORCE MAJEURE**

- 7.1 The Company shall not be liable for any failure in performance of any of its obligations under the contract caused by factors outside its control

### **8. LAW & CONSTRUCTION**

- 8.1 The contract shall be governed by English law and the customer consents to the exclusive jurisdiction of the English courts in all matters regarding the contract
- 8.2 The headings of conditions are by way of reference only and shall not affect their interpretation

### **9.0 VARIATION & REPRESENTATION**

- 9.1 The contract between the Company and the customer is contained exclusively in this form and no servant or agent of the Company has any authority to add vary or contradict these Conditions of Contract whether orally or in writing and the Company shall not be liable for any representation which any servant or agent shall purport to give on its behalf.

## SCHEDULE OF OPERATIONS

<b>Tree Risk Assessment Drawing</b>	<ul style="list-style-type: none"><li>• The Tree Risk Assessment Drawing will be of sufficient detail and scale to enable the identification and appraisal of Targets, and identification or plotting of trees or groups of trees, or roads and paths against which trees might be assessed.</li><li>• Unless specified by contract, the Tree Risk Assessment Drawing is not guaranteed to be to a specific scale or level of accuracy.</li><li>• The Tree Risk Assessment Drawing will be sufficiently accurate to enable identification of individual trees, groups of trees, roads and paths referenced in the Schedules.</li><li>• Unless otherwise specified by contract, base plans of the site/s will be supplied by the Instructing Party. If plans are not provided, we will obtain and charge them at cost plus 20% administration fee.</li></ul>
<b>Schedules</b>	<ul style="list-style-type: none"><li>• Data collected from the survey or inspection of trees will be recorded on tabulated Schedules.</li><li>• The Schedules will be made available in digital formats.</li><li>• The Schedules will cross-reference with the Tree Risk Assessment Drawing.</li></ul>
<b>Target</b>	Something having potential to be harmed or damaged by the failure of a tree.
<b>Target Ranges</b>	Ranges of Target value categorised by the cost of repair or replacement of property, or by levels of human and vehicular occupation as defined in the Quantified Tree Risk Assessment Practice Note.
<b>Target Appraisal</b>	Assessment and where necessary mapping of land-use by estimated value or level of occupation. Targets will be allocated a Target Range. Our assessors see only a snapshot of site usage and the Instructing Party is advised to consider our appraisal against the site manager's local knowledge of land-use.
<b>Drive-by Assessment</b>	<p>In the absence of information to the contrary, the surveyor will assume that the highway boundary is defined by visible enclosures such as fences, walls, and hedges. Trees between the visible enclosures and the surfaced highway will not be assessed unless otherwise agreed in writing.</p> <p>Unless carried out or updated within the preceding year, the surveyor will carry out a Target Appraisal of the survey area or update same and allocate Target Ranges based on estimated average road speed and vehicle and pedestrian flow rates.</p> <p>The surveyor, supported by a driver and complying with the New Roads and Street Works Act 1991, will travel the specified roads. The intention is not to inspect each individual tree in detail or to view all parts or all sides of every tree but to take a general view of trees situated within the highway and to look for signs of substantial defects or ill health that might be significant in relation to the Target Range.</p> <p>Defects and other features identified as being significant in relation to the 'Target' will be recorded and the affected tree/s will be plotted and a Quantified Tree Risk Assessment will be carried out.</p>

Subject to access being available, trees will usually be individually plotted and recorded where the surveyor considers that the annualised risk of harm is likely to be 1/100,000 or greater.

Trees on neighbouring land will be plotted and recorded where it identified that the annualised risk of harm is likely to be 1/10,000 or greater. In this situation and subject to access being available, the tree will be assessed in sufficient detail to inform a provisional management decision.

#### **Walkover Assessment**

Having carried out a Target Appraisal, the assessor will walk the site, not with the intention of inspecting or surveying each tree or viewing all parts or all sides of each tree but to take a general overview of trees and look for signs of obvious defects or ill-health that might be significant in relation to the Targets. The level of detail at which trees are assessed will be guided by the Target Appraisal and the surveyor's initial observations.

The assessor will plot trees in groups or plot a road or footpath against which to assess the trees. Obvious defects or signs of ill-health identified by the assessor as being significant in relation to the Targets will be recorded and the given tree will either be identified on the Tree Risk Assessment Drawing or by a numbered metal/plastic tag fixed to the stem or both.

Where an individual tree is recorded, a Quantified Tree Risk Assessment will be carried out. Where the assessor considers necessary the survey and recording of individual trees, they will (unless excluded by contract) be surveyed and recorded as described for Individual Tree Assessment (below) for which an agreed unit rate will be charged. Where the Walkover Assessment identifies numerous trees as requiring Individual Tree Assessment a separate survey may be arranged and charged at an agreed unit rate, unless excluded by contract in which case the Individual Tree Assessment will be recommended as a management option.

When the assessment of a group, road or footpath has been completed and the higher risk trees recorded individually, the highest residual risk will be described and recorded against the group.

**Individual Tree Assessment**

Having taken a view of the land-use (Targets), the assessor will assess and record the specified tree. The intention will not be the detailed inspection of the tree but to take a general view and look for signs of obvious defect or ill-health that might present a significant risk of harm to the identified Targets. The tree will be assessed as appropriate in the context of the land use, from the ground, using binoculars where appropriate.

The tree will be identified either on the Tree Risk Assessment Drawing or by a numbered tag fixed to the stem, or both. Signs of defect or ill-health identified as being potentially significant in relation to the Targets will be recorded against the tree. Where the surveyor considers necessary the detailed inspection of trees to ascertain the extent and significance of defects or other features, they will (unless excluded by contract) inspect and record the tree as described for Detailed Tree Inspection (below) and, unless otherwise included in the contract, be charged at an agreed unit rate. Where the Individual Tree Assessment identifies more numerous trees as requiring Detailed Tree Inspection than the agreed quota, a separate visit will be scheduled, unless excluded by contract in which case the Detailed Tree Inspection will be recommended as a management option.

**Detailed Tree Inspection**

Having carried out a Target Appraisal, the assessor will investigate, evaluate and record defects, decay, ill-health and other conditions to establish their likely effects mechanical integrity of the trees.

**Invasive Investigation**

Where considered necessary by the assessor, Invasive Investigation may be employed and might include but not be limited to:

- extraction of soil samples
- root-collar excavation (the use of hand-excavation of ground around the base of the tree)
- test-boring with twist-drill or microdrill (Resi 400 ™)
- extraction of increment cores
- removal of loose dead bark
- removal of live bark
- removal of shoots, branches and foliage
- removal and identification of fungi

When considered necessary, laboratory analysis of samples will be commissioned and will be charged at cost plus 10% unless excluded by contract in which case laboratory analysis may be recommended.

**Aerial Inspection**

Aerial Inspection is the climbing assessment of those parts of the tree that cannot be assessed while standing on the ground. Aerial Inspection will usually be carried out by ascending the tree using rope and harness or by Mobile Elevated Work Platform. For reasons of safety, both of these methods require the presence of a second competent climber. A lone assessor using a ladder might, taking appropriate precautions, carry out inspections within 4 metres of ground level.