



## ACE AGREEMENTS FAQs

### WHAT ARE ACE AGREEMENTS?

The ACE Agreements are standard terms of engagement for consulting engineers.

### HOW DID THEY COME ABOUT?

ACE has published standard conditions of engagement for many years to assist its members and the profession with an agreement which contains terms and conditions covering the rights and duties of the parties and with a division of risk which could be covered by professional indemnity insurance.

A completely updated suite of agreements was published in 2009, and revised in 2011, in order to accommodate certain statutory obligations.

Separate agreements were published at the same time for Scotland to ensure compliance with Scottish law.

Schedules of Services for use with the agreements were also published in 2009.

### HOW HAVE THE ACE AGREEMENTS EVOLVED SINCE 2011?

In 2015 a **Short Form Agreement** was published intended for use where there is a clear description/brief of the services the consultant is required to deliver.

In 2017 a new **Professional Services Agreement** was published together with a new **Sub-Consultancy Agreement**, which replaced ACE Agreement 4, as well as new **Schedules of Services**.

The Professional Services Agreement replaced ACE Agreements 1 and 3 (including the Scottish versions) combining them into one document.

### WHAT HAS CHANGED IN THE NEW AGREEMENTS?

The new **Professional Services Agreement and Sub-Consultancy Agreement** can be used in all UK jurisdictions and offer a choice of attestation clauses as well other provisions to accommodate Scottish law.

The Agreements can be used by consultants, public and private sector clients and by contractors and are designed to be fair and even-handed.

In providing the services, the consultant must exercise the reasonable skill, care and diligence “appropriate to a consultant qualified in the relevant discipline engaged in the performance of such services for projects of a similar nature, size and complexity to the project”.

The Agreements are written in clear language and are “user friendly”. The rights and obligations of the parties are set out in one clause to ensure greater clarity of responsibilities and balance risk fairly, allocating risk to the party best able to manage it.



Provisions for collaboration and the early warning of events which may impact on the delivery of services, are included to encourage team working and reflect good business practice.

A clause is included to facilitate the use of BIM.

A standard form of collateral warranty can also be incorporated within the Agreement, if required by the Client.

It is designed to be acceptable to insurers. Liability under the warranty is no greater than that which is owed to the client under the main appointment.

### **WHAT ABOUT LIMITATIONS OF LIABILITY?**

The Agreement contains provisions whereby liability can be limited and there is also the ability to exclude liability in certain situations - including terrorism, asbestos and contamination and pollution. A default provision is also included if liability is not specifically addressed.

### **WHAT IF SUPPLEMENTARY OR BESPOKE CLAUSES ARE NEEDED?**

ACE Agreements provides space for the insertion of any supplementary or bespoke clauses. However, any such clauses should be carefully considered before being inserted as they may affect the balance of risk.

### **IS THERE ANY GUIDANCE ON USE OF THE NEW PROFESSIONAL SERVICES AGREEMENT?**

Guidance Notes are included in the Agreement, enabling users to gain a broad understanding of the Agreement and assist in its completion. However they should not be seen as an exhaustive or definitive commentary, but a helpful guide and they do not form a part of the Agreement.

### **WHAT ABOUT THE NEW SCHEDULES OF SERVICES?**

The new Schedules of Services "mirror" the sequence of the RIBA Plan of Works and provide for the use of BIM, if required. They offer a useful tool for those who deliver the wide variety of engineering and consultancy services, whether civil and structural or mechanical, electrical or public health engineering and whether you are the lead, non-lead or single consultant.

### **ARE THERE DIGITAL VERSIONS OF THE AGREEMENTS AND SCHEDULES OF SERVICES?**

There are digital versions of all the ACE Agreements and Schedules of Services. Once purchased, digital versions can be amended online using our editor.

In addition licenses can be purchased for organisations wishing to purchase a larger number of the documents.



### **WHAT HAS HAPPENED TO AGREEMENTS 1-9?**

While these Agreements are still available and Agreements 2,5 and 9 are still current, they are the subject of a review. Agreements 6, 7 and 8, which deal with the appointment of expert witnesses and of an adjudicator, are also current.

### **CAN ACE HELP WITH DISPUTES?**

On the rare occasions where there is a dispute between parties, as an adjudicating nominating body ACE can act on request nominate an adjudicator. Please see [www.acenet.co.uk/contracts/adjudication](http://www.acenet.co.uk/contracts/adjudication) for more.

### **WHERE CAN I FIND OUT MORE?**

There is more information available on our website [www.acenet.co.uk/contracts](http://www.acenet.co.uk/contracts) and ACE's Contracts Advisor, Rosemary Beales, is available to discuss any issues or further questions which may arise: [rbeales@acenet.co.uk](mailto:rbeales@acenet.co.uk) or **020 7222 6557**.

*This FAQ document was prepared in September 2018.*