

## **TERMS OF USE of ACO BIM MATERIALS - “ACO BIM SPACE”**

The ACO BIM SPACE offers building information modelling to assist design and construction professionals and its use is free of charge. The user should read and accept the provisions in the opening screen of the software “Accept” to continue.

1. The programme should only be used by suitably qualified design and construction staff. Users should be familiar with the relevant theory and practice associated with of the products offered by ACO, including the determination of appropriate design parameters.

2. By click to accept and by using the programme the User confirms that it has read and accepts the Terms of Use and limitation of liability contained in them.

3. Whilst every effort has been made to validate the accuracy of the content of ACO BIM SPACE *the design information included is intended to be indicative only and*, ACO gives no guarantee or warranty either expressed or implied as to the quality fitness for purpose performance or merchantability of the down loadable content. Neither is ACO to be held responsible or liable for the correctness or suitability of the design output. The User is solely responsible for the design and must through advice from a suitably qualified and experienced professional independently verify the design results. The ACO product range and ACO BIM SPACE are subject to updating.

4. Intellectual Property Rights including but not limited to patents copyright design right trademarks trade names or in relation to computer software and database rights know-how or trade secrets in all cases whether registered or unregistered with all similar or equivalent rights or forms of protection which now or in the future subsist in any part of the world remain the sole and exclusive property of ACO. No rights are granted to the User of ACO BIM SPACE or the content contained in it except as expressly provided for in these Terms of Use.

5. No rights are granted to copy decompile disassemble adapt merge translate reverse engineer or in any way modify the supporting programme or content of ACO BIM SPACE nor to transmit such content in any form.

6. On acceptance of these Terms of Use ACO grants to you as User:

6.1 a non-transferrable non-exclusive licence to use the content on the ACO BIM SPACE

6.2 such licence is personal and does not grant a right to sub-licence the whole or part of any rights included within your licence or to share copy or grant access to others other than expressly provided in 6.3 below.

6.3. subject to your compliance in full with these Terms of Use you may download and reproduce part or parts related to individual ACO BIM content (but not a substantial proportion of the content of ACO BIM SPACE) either alone or in conjunction with your own material

(a) for personal use not for commercial or profit or gain or

(b) for educational purposes only or

(c) to be included in any drawings or contract documents used or intended to be used in connection with a building contract where you are or may

become a contracting party, or in connection with which you are engaged or may be engaged in the future by one of the contracting parties in a professional capacity but not otherwise

- 7.1 Nothing in these Terms of Use excludes or limits ACO's liability for:
- (a) death or personal injury caused by negligence of ACO or its employees
  - (b) fraud or fraudulent misrepresentation
- 7.2 subject to the preceding sub-clause 7.1 ACO will under no circumstances whatever be liable to you whether in contract, tort (including negligence) breach of statutory duty, or otherwise arising under or in connection with the use of ACO BIM content, for
- (a) any loss of profit sales business or revenues
  - (b) loss or corruption of data information or software
  - (c) loss of business opportunity
  - (d) loss of anticipated savings
  - (e) loss of goodwill; or
  - (f) damage suffered by you as a result of any claim brought by a third party even if reasonably foreseeable.
- 7.3 subject to preceding sub-clauses 7.1 and 7.2 the total liability of ACO to you in respect of all losses arising under or in connection with use of ACO BIM SPACE whether or in contract tort (including negligence) breach of statutory duty or otherwise shall in no circumstances exceed £1,000.
- 7.4 ACO does not give any representation or warranty or undertaking in respect of any of the products featured in the content of ACO BIM SPACE except as stated in ACO's standard Terms and Conditions of Sale a copy of which may be found on our website.
- 7.5 In particular ACO will not be responsible for ensuring the products are suitable for your purpose.
8. Notices and Communication
- 8.1 All notices given by you to us must be given to ACO Technologies Plc at Hitchin Road, Shefford, Bedfordshire, SG17 5TE
- 8.2 By accepting these Terms of Use you agree that communications between us will be mainly electronic. You agree that we will contact you by email or provide information to you by postings on our website and/or ACO BIM SPACE
9. Events out of our control
- 9.1. We will not be responsible for any failure to perform, or delay in performance of any of our obligations to you caused by an event outside our control as described below.

9.2. An event outside our control means any act or event beyond our reasonable control including without limitation strikes, lockouts or other industrial action, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks

9.3. If an event outside our control takes place that affects the performance of our obligations then our obligations will be suspended and the time for performance of our obligations shall be extended for the duration of the event outside our control. We will where possible post notices of an event outside of our control on our website or in ACO BIM SPACE.

## 10. Other Important Terms

10.1. We may transfer our rights and obligations in respect of ACO BIM SPACE and the content to another organization, but this will not affect your rights or our obligations under these Terms of Use. We will notify you in writing by post on this web page if this happens.

10.2. You may only transfer your rights or your obligations under these Terms to another person if we agree in writing and we reserve the right not to agree.

10.3. This contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.

10.4. Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

10.5. If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

10.6. A dispute or claim arising out of or in connection with your use of ACO BIM SPACE or its content (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

10.7. You and we both irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with or its subject matter or formation (including non-contractual disputes or claims).