

Quotation for a Refurbishment Survey

Client Details

- Client: Kier Construction Northern
- Prepared for: Ian Pearson
- Clients Address: Kier House, Windward Drive, Estuary Park, Speke, Liverpool., L24 8QR
- Site/Project Address: Commonwealth Pool Aquatic Centre, 2 Booth Street East, Manchester., M13 9SS

Scope-iT Ltd

- Prepared by: Patrick Jones
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Summary Overview

- Refurbishment Survey
- Quotation number: Q048440
- Quotation Date: 3 Feb 2020
- Total Charges of services (Excludes VAT): £8,100.00

Scope iT

Unit 14 The Quad
Atherleigh Business Park
Gibfield Park Avenue Atherton
Manchester M46 0SY



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Document number: SQ14 Rev 4.
Document Issue date: April 2019
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1. Introduction and Scope of Work

Further to a request by Kier Construction Northern, Scope iT Ltd is pleased to provide a quotation for conducting an asbestos Refurbishment Survey of Commonwealth Pool Aquatic Centre, 2 Booth Street East, Manchester,, M13 9SS.

The purpose of the survey is to enable those responsible for the management of the site to compile the necessary risk assessments, ascertain any necessary restrictions on the operation of the site and make due provision for the management of asbestos containing materials (ACMs) identified as part of the duty holders ongoing obligations under Regulation 4 of the most current Control of Asbestos Regulations.

The scope of the survey was defined by Ian Pearson as: Refurbishment survey to facilitate proposed refurbishment works to internal areas.

Scope iT Ltd hold accreditation for inspection body activities (surveying), as a Type C organisation in accordance with ISO17020, (Inspection Body Number 9086).

Scope iT Ltd also hold accreditation of measurement and sampling, in accordance with ISO 17025, granted by the United Kingdom Accreditation Service (UKAS) for all asbestos air and analysis, and stages 1 to 4 of the clearance procedures, (Laboratory Number 9086).

2. Inclusions, Exclusions and Caveats

The following areas will be included within the scope of work and will be accessed and inspected as part of the survey, if required by the Client, Scope iT Ltd will make appropriate survey schedule in consideration of maintenance activity or proposed works at client's site. This will be particularly relevant to Refurbishment or Demolition Surveys although particular building use may mean that some may be required during a Management Survey.

Element	Usual inspection method (if applicable)	Included? Yes/No	Comment
Solid wall cavities	Removal of vent covers or window sills.	Yes	
Partition wall cavities	Inspection hole created with appropriate tools.	Yes	
Above fixed suspended ceilings	Inspection hole created with appropriate tools. May also be possible via removal of flooring above.	Yes	
Within boxing's or risers (not formed with paneling of a suspect nature)	Removal of covering panels.	Yes	
Floor voids	Removal of flooring or use of existing access points.	Yes	
Beneath window sills	Removal of window sill or inspection hole created with appropriate tools.	Yes	
Within fire doors	Removal of door furniture. Inspection holes created with appropriate tools.	Yes	
Beneath fixed flooring materials (e.g. Laminate / ceramic tiles)	Removal of flooring.	Yes	
Beneath carpet or non-asbestos flooring	Removal of flooring.	Yes	
Behind fixed wall cladding / coverings / tiles	Removal of cladding / coverings / tiles.	Yes	
Behind skirting and door frames	Removal of skirting boards and door frames.	Yes	
Beneath or behind furniture - e.g. Bath panels / kitchen units	Removal of cladding panels / units. Inspection hole created using appropriate tools.	Yes	

Element	Usual inspection method (if applicable)	Included? Yes/No	Comment
Beneath non-asbestos insulation to pipework / Calorifier etc.	Removal of insulation materials.	Yes	
Behind non-asbestos external soffits / fascia's	Removal of soffit / fascia. Inspection hole created using appropriate tools.	No	Outside scope of works
Roof voids	Inspection from access hatch (if no fix flooring is available)	Yes	
Inaccessible or locked rooms to which there are no keys available	Access gained using intrusive methods.	Yes	
Work at height where access equipment would be required	Inspection using 'Triple 8' ladders, MEWP or scaffold as appropriate.	Yes	
All areas found within site boundaries	Inspection of all areas within the site boundaries.	No	Internal areas only.
Lift Shafts	Live lift shafts will only be accessed when accompanied by a competent lift engineer who shall be provided by the client.	Yes	If to be disturbed by refurbishment works.
Live plant	Live plant will only be accessed when accompanied by a competent engineer who shall be provided by the client.	Yes	If suitably isolated.
Any site specific exclusions?		Yes	External areas.

The following are standard exclusions which will be applied to the survey undertaken at the property. These will be discussed and pre-agreed with the Client prior to commencement of the survey, and will serve as specific caveats within the property Survey Report. All areas excluded from the survey must be presumed to contain Asbestos. Other exclusions may become apparent during the course of the survey which will be communicated to the Client before being applied to the survey report.

Item to be excluded from the survey	Excluded?	Comment
Within electric switchgear, fuse boxes, plant and other associated services.	Yes	Unless suitably isolated.
Within operational plant and machinery including boilers / calorifiers / lift machinery etc.	Yes	Unless suitably isolated.
Access behind / above existing ACM's which would require the use of a LARC and enclosure.	Yes	
Intrusion through solid floor, ceiling slab or solid walls requiring additional specialist support services.	Yes	
Below external ground level.	Yes	

3. Timescales, Deliverables and Cost

To undertake the survey and consulting services works as detailed by the client, the cost is inclusive of the following: -

- 10 Number of days included in the cost of the survey.
The quotation is based on Scope iT Ltd providing the services under normal working hours between 08.00 - 16.00, Monday to Friday.
Samples and analysis is included in the quotation.
- Additional days required beyond the quoted number of days will be charged at £320.00 per day, per surveyor.
All samples are analysed within a UKAS accredited laboratory.
- All travel cost and general access equipment is included.
Mechanical high-level access equipment is not included within this quotation unless specifically stated.
- Detailed asbestos survey report including digital colour photographs and colour plans will be furnished.
Report to be issued within 3 - 5 working days from completion of survey unless agreed otherwise with the client.
- When relevant and required, Scope iT Ltd will provide quotation of removals and /or reinstatement upon completion of the survey and consulting services.
Scope iT Ltd will provide quotations for these services from our list of approved and vetted licensed asbestos contractors
- Additional access requirements
(Where pre planned access to normally inaccessible areas has been agreed, an additional cost may be incurred. These would be discussed and agreed with the client prior to survey commencement but are excluded from this quotation)
- Where notice of cancellation is not provided 24 hours prior to commencement of the survey at site Client shall be charged £350.00

This quotation includes the Terms & Conditions for the supply of Services in section 4

Total Charges for the Supply of Services: £8,100.00 (Exc VAT)

Please confirm your acceptance for our further action to commence services. Thank You.

Proposal Prepared by:

Patrick Jones
Operations Manager



Date of Issue: 3 Feb 2020

Quote reference: Q048440

4. Terms and Conditions for the supply of Services

Scope iT Ltd

1 Definitions and interpretation

In these Conditions the following definitions and rules of interpretation shall apply.

1.1 Definitions

Applicable Law: any applicable law, statute, regulation, code and policy which applies to the exercise of the parties' rights or the performance of their obligations under the Contract.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Client to the Company for the supply of the Services in accordance with clause 5.

Client: the person who purchases Services from the Company.

Commencement Date: has the meaning given in clause 2.2.

Company: Scope iT Ltd, a company incorporated in England (No. 08606724) with its registered office at 378 – 380 Deansgate, Manchester, M3 4LY.

Company Materials: has the meaning set out in clause 4.1(h).

Conditions: these terms and conditions as amended from time to time in accordance with clause 12.4.

Contract: the contract between the Company and the Client for the supply of Services in accordance with the Company's quotation and these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

Data Protection Legislation: the General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, and all other Applicable Law relating to the protection and processing of personal data, privacy and direct marketing, including any Applicable Law which supersedes, replaces or implements any of the foregoing in the United Kingdom.

Deliverables: the data, drawings, plans, documents, test results, reports and other information produced by the Company for the Client.

Intellectual Property Rights: patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Client's order for Services, as set out in the Client's purchase order form, or otherwise as submitted by the Client via telephone or email, as the case may be.

Scope of Work: the description or specification of the Services provided in writing by the Company to the Client as set out in the quotation (as maybe amended from time to time in accordance with clause 3.3).

Services: the services, including the Deliverables, supplied by the Company to the Client as set out in the Scope of Work.

1.2 Interpretation

- (a) A reference to a clause is to a clause of these Conditions.
- (b) Words importing one gender include every gender and references to the singular include the plural and vice versa.
- (c) Words denoting persons include individuals and bodies corporate, partnerships, unincorporated associations and other bodies (in each case, wherever resident and for whatever purpose) and vice versa.
- (d) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (e) Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (f) A reference to writing or written includes email.
- (g) The terms personal data, controller, processor, process, data subject and personal data breach shall each have the applicable meaning set out in the Data Protection Legislation.

2 Basis of contract

- 2.1 The Order constitutes an offer by the Client to purchase Services in accordance with the Company's quotation and these Conditions.
- 2.2 The Order shall only be deemed to be accepted when an authorised representative of the Company issues written acceptance of the Order or, if earlier, when the Services commence, at which point, and on which date the Contract shall come into existence (Commencement Date). The Company's employees, agents, consultants and sub-contractors are not authorised to make any representations concerning the Services unless confirmed by the Company in writing.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained on the Company's website or in the Company's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by the Company shall not constitute an offer and is only valid for a period of 30 days from its date of issue. Following the expiry of the period of 30 days from the date of issue of any quotation, the terms of such quotation (including the quoted price) may be subject to change.

3 Supply of Services

- 3.1 In consideration of the payment of the Charges, the Company shall provide the Services to the Client in accordance with the Scope of Work in all material respects.
- 3.2 The Company shall use its reasonable endeavours to meet any performance dates specified in its quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 The Company reserves the right to amend the Scope of Work in certain circumstances (such as, without limitation, where such amendment will not materially affect the nature or quality of the Services; to include services that were not initially included within the Scope of Work; to comply with Applicable Law; or due to any other factor beyond the control of the Company which causes delay and/or cost implications to the Company). In such circumstances, the Company will notify the Client of such variation to the Scope of Work and of any increase to the Charges as a result of such variation (pursuant to clause 5.4).

3.4 The Company warrants to the Client that:

- (a) it is accredited by UKAS and that the Services (with the exception of advice, consultancy and training services) will be provided in accordance with the Company's accredited procedure;
- (b) the Services will be provided using reasonable care and skill.

3.5 The Services are provided to and for the benefit of the Client exclusively and all collateral warranties are hereby excluded.

4 Client's obligations

4.1 The Client shall:

- (a) ensure that the terms of the Order and any information it provides set out in the Scope of Work are complete and accurate;
- (b) co-operate with the Company in all matters relating to the Services;
- (c) provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (d) provide the Company, its officers, employees, agents, consultants and sub-contractors, with access to the Client's site, premises, office accommodation and other facilities as reasonably required by the Company;
- (e) prior to the supply of the Services, prepare the site at which the Services are to be delivered;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all Applicable Law, including health and safety laws;
- (h) keep all materials, equipment, documents and other property of the Company (Company Materials) at the Client's site or premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation;
- (i) comply with any additional obligations as set out in the Scope of Work.

4.2 If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (Client Default):

- (a) without limiting or affecting any other right or remedy available to it, the Company shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays the Company's performance of any of its obligations;
- (b) the Company shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) the Client shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Client Default.

4.3 All Deliverables are based on information supplied by the Client and evidence known to the Company at the time of preparation of the Deliverables. The Client shall supply all information pursuant to clause 4.1(c) within the timescales required by the Company. All Deliverables provided or recommendations made by the Company rely on scientific and engineering concepts, disciplines and procedures used or adopted by the Company and the Company does not warrant that the same will necessarily be achieved by other parties, or that such Deliverables or recommendations will necessarily be valid in circumstances other than those of which the Company has direct experience. All test results derived from the performance of the Services are subject to the limitations of normal experimental uncertainties.

5 Charges and payment

- 5.1 The Client shall pay the Charges to the Company as set out in the Company's quotation and in accordance with this clause 5.
- 5.2 In certain circumstances, the Company may require payment of the Charges (in whole or in part) in advance of commencement of the Services.
- 5.3 Subject to clause 5.2 and any special terms agreed in writing between the Client and the Company, the Company shall be entitled to invoice the Client for the Charges on or at any time after the Commencement Date.
- 5.4 The Client shall pay the Charges in full and cleared funds within 30 days of the date of invoice in Pounds Sterling to a bank account nominated in writing by the Company. Time for payment of the Charges shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.5 Charges are subject to change, at the Company's discretion, at any time prior to the commencement of the Services. The Company reserves the right, by giving notice to the Client, to increase the Charges to reflect any increase in the cost to the Company which is due to factors beyond the Company's control (such as, without limitation, change in Applicable Law, change to the Scope of Work, increases in supply costs (including labour costs of experts and engineers, materials, machinery or any other costs relevant to the supply of the Services), or any delay or cost incurred by the Company as a result of a Client Default.
- 5.6 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Client, the Client shall, on receipt of a valid tax invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.7 If the Client fails to make any payment due to the Company under the Contract on the due date then, without prejudice to any other right or remedy available to the Company, the client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.7 shall accrue each day at 8% a year above the Bank of England's base rate from time to time. The Company shall also be entitled to recover from the Client any costs it suffers or incurs in recovering any such outstanding amount owed to the Company, including legal costs and disbursements, and charge any bank charges incurred by the Company on representing cheques or requesting special clearance thereof.
- 5.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

6 Intellectual Property Rights

- 6.1 Unless otherwise agreed in writing between the parties, all Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by the Company.
- 6.2 Subject to the Client complying with its obligations under the Contract, the Company grants to the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual licence to copy the Deliverables (excluding materials provided by the Client) for the purpose of receiving and using the Services and the Deliverables.
- 6.3 The Client shall not sub-license, assign or otherwise transfer the rights granted in clause 6.2. The Deliverables are prepared exclusively for the Client for the purposes of the Contract and may not under any circumstances be used by or relied upon by any other third party.
- 6.4 The Client grants the Company a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Company for the term of the Contract for the purpose of providing the Services to the Client.
- 6.5 While the Company is not aware, to the best of its knowledge, that any Deliverables infringe the Intellectual Property Rights of any third party, it does not give any particular warranty in this respect.

7 Confidentiality

- 7.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, clients or suppliers of the other party, except as permitted by clause 7.2.
- 7.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, sub-contractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, sub-contractors or advisers to whom it discloses the other party's confidential information comply with this clause 7; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 7.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

8 Data Protection

- 8.1 Each party will comply with all applicable requirements of the Data Protection Legislation. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 8.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the controller and the Company is the processor.
- 8.3 Without prejudice to the generality of clause 8.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Company for the duration and purposes of the Contract.
- 8.4 Without prejudice to the generality of clause 8.1, the Company shall, to the extent that any personal data is processed in connection with the performance by the Company of its obligations under the Contract:
- (a) process that personal data only on the written instructions of the Client unless the Company is required by Applicable Law to otherwise process that personal data. Where the Company is relying on Applicable Law as the basis for processing personal data, the Company shall notify the Client of this before performing the processing required by the Applicable Law (unless such Applicable Law prohibits the Company from so notifying the Client);
 - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

- (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
 - i. the Client or the Company has provided appropriate safeguards in relation to the transfer;
 - ii. the data subject has enforceable rights and effective legal remedies;
 - iii. the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - iv. the Company complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the personal data;
 - (e) assist the Client, at the Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Client without undue delay on becoming aware of a personal data breach;
 - (g) at the written direction of the Client, delete or return personal data and copies thereof to the Client on termination of the Contract unless required by Applicable Law to store the personal data;
 - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 8 and allow for audits by the Client or the Client's designated auditor; and
 - (i) immediately inform the Client if, in the opinion of the Company, an instruction infringes the Data Protection Legislation.
- 8.5 The Client consents to the Company appointing any sub-contractors engaged by the Company to carry out services on its behalf as third-party processors of personal data under the Contract. The Company confirms that it has entered or (as the case may be) will enter with the third party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 8. As between the Client and the Company, the Company shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 8.
- 8.6 In providing the Services, the Company may obtain, use, process and disclose personal data concerning the Client's directors, officers, personnel, agents or sub-contractors. Where the Company is responsible for determining the purpose for which it processes such personal data, it shall be operating as a controller for the purposes of the Data Protection Legislation and shall comply with all applicable requirements of the Data Protection Legislation. The personal data it is likely to collect when operating as a controller includes the names, contact details and communications of the Client's personnel. The personal data will primarily be used for the purpose of providing the Services and performing the Contract. The Company will inform the Client if it intends to use the personal data for another purpose and/or disclose that data to a third party. In certain circumstances, the Company may carry out electronic verification checks with credit reference agencies in order to understand the Client's financial status prior to commencing provision of the Services. The Company may request the date of birth and home address of a relevant person in order to conduct these electronic checks. Such information may be disclosed to third party credit reference agencies or other verification organisations that carry out such checks on the Company's behalf.

- 8.7 Either party may, at any time on not less than 30 days' notice, revise this clause 8 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
- 9 Limitation of liability
- 9.1 The restrictions on liability in this clause 9 apply to every liability arising under and/or in connection with the Contract, however arising, including liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise.
- 9.2 Nothing in the Contract shall limit or exclude a party's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its directors, officers, personnel, agents or sub-contractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) anything else that cannot be limited or excluded by Applicable Law.
- 9.3 Subject to clause 9.2 and clause 9.10, the Company shall not be liable for any:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information;
 - (f) loss of or damage to goodwill; and
 - (g) any special, indirect or consequential losses, costs, damages, charges or expenses, howsoever arising under and/or in connection with the Contract
- 9.4 Subject to clauses 9.2, 9.3 and clause 9.10, the maximum liability of the Company under and/or in connection with the Contract shall be limited to 125% of the Charges.
- 9.5 The Company shall not be liable to any third party that seeks to rely upon or benefit from the Services and Deliverables without the Company's prior written consent for any loss, damage, costs or expenses of any kind whatsoever, consequential or otherwise, arising out of or due to or caused by any defects or deficiencies of any sort in the Services and Deliverables whether such defects or deficiencies are caused by the negligence of the Company, directors, officers, personnel, agents, sub-contractors or otherwise. The Client shall indemnify, and keep the Company indemnified, in respect of any and all losses, liabilities, fines, damages, costs and expenses incurred or suffered by the Company from any third parties resulting from such use of or reliance upon the Services and Deliverables.
- 9.6 The Company shall not be liable for any loss, damage, costs, expenses or other claims for compensation arising from the Client's breach of its obligations under clause 4.
- 9.7 The Company shall not be liable for any loss or damage, howsoever caused, to any goods or samples submitted by the Client to the Company for examination. Following examination of the goods or samples the remainder will only be returned to the Client upon written request. Unless the Company receives notice in writing to the contrary the company shall be entitled to dispose of all goods or samples within six months of the completion of the Contract.

- 9.8 The Client shall indemnify, and keep the Company indemnified, in respect of any and all losses, liabilities, fines, damages, costs and expenses incurred or suffered by the Company resulting from any breach by the Client of Applicable Law.
- 9.9 The Client acknowledges and agrees that the limitations and exclusions in this clause 9 are:
- (a) fair and reasonable;
 - (b) reflect the level of insurance cover arranged by the Company and the Client is responsible for making its own arrangements for the insurance of any excess loss.
- 9.10 Except as expressly and specifically provided in the Contract, all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by Applicable Law, excluded from the Contract.
- 10 Cancellation, termination and suspension rights
- 10.1 No Order that has been accepted by the Company in accordance with clause 2.2 may be cancelled by the Client, except with the prior written agreement of the Company and subject to clause 10.2 below.
- 10.2 The Client shall indemnify the Company in full against all losses (including cost of all labour and materials used), liabilities, damages, costs and expenses suffered or incurred by the Company as the result of the Client's cancellation pursuant to clause 10.1.
- 10.3 Without affecting any other right or remedy available to it, the Company may immediately terminate the Contract by giving written notice to the Client if:
- (a) the Client fails to pay any amount due under the Contract on the due date for payment; or
 - (b) the Client commits a material breach of any provisions of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of being notified in writing to do so; or
 - (c) there is a change of Control of the Client; or
 - (d) the Client is, or for statutory purposes is deemed to be or appears to be, unable to pay its debts as they become due, or the value of its assets is less than the amount of its liabilities (including contingent and prospective liabilities) or the Client otherwise becomes insolvent or suspends payment or threatens to do so or ceases to trade; or
 - (e) the Client makes a voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - (f) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
 - (g) the Client ceases, or threatens to cease, to carry on business or suspends all or substantially all of its operations; or
 - (h) where the Client is an individual or partnership, he or any partner dies; or
 - (i) the Client is subject to an event analogous to (d) to (h) above in any other jurisdiction; or
 - (j) the Company reasonably anticipates that any of the events set out in (d) to (i) above is about to occur in relation to the Client.

- 10.4 Without affecting any other right or remedy available to it, if any of the circumstances described in clause 10.3 apply, the Client shall immediately notify the company in writing of the same and the Company may immediately (at its discretion, whether or not it has received notice from the client as aforesaid) by providing written notice to the Client exercise any one or more of the following rights:
- (a) suspend the supply of Services under the Contract or any other contract between the Client and the Company (and any such period of suspension shall be disregarded for the purpose of and timescales previously agreed for the completion of the Services);
 - (b) terminate any other contract between the Client and the Company;
 - (c) declare immediately due and payable any amounts owed by the Client to the Company under the Contract or any other contract between the Client and the Company (including any interest that has accrued in respect of the same);
 - (d) issue proceedings against the Client for any amounts owing under the Contract or any other contract between the Client and the Company and/or damages, as appropriate.
- 10.5 On termination of the Contract, howsoever caused:
- (a) the Client shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Client immediately on receipt;
 - (b) the Client shall return all of the Company Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then the Company may enter the Company's premises and/or site and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 11 Assignment and sub-contracting
- 11.1 The Client shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, sub-contract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 11.2 The Company may at any time assign, transfer, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 12 General
- 12.1 Force majeure. The Company shall not be in breach of the Contract nor liable to the Client for delay in performing, or any failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control.

12.2 Notices

- (a) Any notice to be given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service to the other party at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the email address specified in the Scope of Work, or to such other address or email address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- (b) Any notice shall be deemed to have been received:
 - i. if delivered by hand, on signature of a delivery receipt;
 - ii. if sent by pre-paid first-class post or other next working day delivery service, at 9:00am on the second Business Day after posting or at the time recorded by the delivery service; and
 - iii. if sent by email, at the time of transmission, or, if this time falls outside business hours, when business hours resume (providing that no delivery failure notification is received by the sender). For the purpose of this clause, business hours means 9:00am to 5:00pm on a Business Day.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12.3 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

12.4 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.5 Waiver. A waiver by the Company of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by the Company to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law by the Company shall prevent or restrict the further exercise of that or any other right or remedy by the Company.

13 Accrued rights. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

14 Survival. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

14.1 Correction. Any typographical, clerical or other administrative error or omission in any provision of the Contract or any invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

14.2 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, in whole or in part, the parties intend that the legality, validity and enforceability of the remainder of the Contract shall not be affected.

14.3 Third party rights. Unless it expressly states otherwise, a person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

- 14.4 Publicity. The Company's name shall not be used in connection with the Contract for purposes of publicity, promotion or advertising without the Company's prior written consent. The Company may publish or join in publishing any description or illustration of the works with the prior consent of the Client.
- 15 Governing law and jurisdiction
- 15.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England.
- 15.2 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.