

Terms and Conditions of Business

1 Introduction

1.1 These terms and conditions ("Conditions") set out the basis upon which LQM shall provide the Services to the Client under the Contract and, save as otherwise expressly agreed in writing and signed by a Director of LQM, these Conditions shall apply to the exclusion of any terms and conditions of the Client.

1.2 The Contract takes effect upon signature of the Order Confirmation Letter by the Client or on the Client's behalf. Where the Order Confirmation Letter is signed on the Client's behalf, the Client hereby confirms that: (i) the signatory has the authority to act on behalf of the Client and to bind the Client to the Contract; (ii) all details of the Client inserted in the Order Confirmation Letter are accurate and up-to-date; and (iii) by the signatory signing the Order Confirmation Letter on the Client's behalf, the Client accepts the Proposal, the Quotation and these Conditions and agrees to be bound by the Contract.

1.3 In the event that the Proposal, the Quotation and these Conditions are not expressly accepted by signature of the Order Confirmation Letter by the Client or on the Client's behalf, they shall be deemed to have been accepted by the Client and the Contract shall come into effect upon LQM starting to provide the Services at the Client's request.

1.4 In the event of any conflict between these Conditions and any special conditions set out in the Proposal, those special conditions shall take precedence subject to Condition 1.5.

1.5 Any variation to these Conditions (including any special condition set out in the Proposal) shall be inapplicable unless expressly agreed in writing and signed by a Director of LQM.

2 Definitions

2.1 In these Conditions the following words and phrases shall have the following meanings:

- (a) "Client" means the contracting party to whom LQM shall provide the Services under the Contract;
- (b) "Contract" means the contract between LQM and the Client for the provision of the Services, consisting of the Proposal, the Quotation and these Conditions;
- (c) "LQM" means Land Quality Management Ltd and includes, unless the context otherwise requires, its subcontractors, agents and employees;
- (d) "Order Confirmation Letter" means the letter attached to these Conditions, by which the Client confirms its acceptance of the Proposal, the Quotation and these Conditions and agreement to be bound by the Contract through signature of the letter by the Client or on its behalf;
- (e) "Proposal" means the written document in which LQM details the activities and services it shall provide to the Client under the Contract;
- (f) "Quotation" means the written quote in which LQM details the fees it shall charge for providing the Services to the Client under the Contract; and
- (g) "Services" means the activities and services to be provided by LQM to the Client under the Contract as set out in the Proposal.

2.2 Headings have been included for convenience only and shall not affect the construction or interpretation of these Conditions.

3 LQM's Obligations

3.1 LQM shall exercise all reasonable skill, care and diligence in providing the Services to the Client in accordance with the Proposal.

3.2 LQM intends to employ the methods, procedures, techniques, personnel and sources of information set out in the Proposal but reserves the right to vary these at its discretion. Any significant variations will be undertaken in consultation with the Client.

3.3 Except where it is difficult for LQM to specify in the Proposal the precise nature and scope of the activities required to perform the Services prior to their commencement, the nature and scope of the Services will not be materially altered by LQM without the Client's consent. In the event that LQM or the Client considers during the provision of any Services that a material change or addition to the nature and/or scope of those Services will be required in order for them to be properly carried out, it shall notify the other of such change or addition and enter into negotiations with the other in good faith in order to effect any consequent changes required to the terms of the Proposal, the Quotation and/or any other terms of the Contract.

4 Fees and Payment

4.1 In consideration of the provision of the Services the Client shall pay LQM the fees as set out in the Quotation (as amended from time to time in the light of

any agreed change or addition to the nature and/or scope of Services). All fees do not include: (i) VAT, which will be charged to the Client at the prevailing rate; and (ii) any reasonable out-of-pocket expenses incurred by LQM in providing the Services to the Client and agreed with the Client in advance, which will be charged to the Client at cost.

4.2 All payments to LQM shall be made against LQM's invoices, which (unless otherwise agreed in writing) LQM shall be entitled to present to the Client on or at any time after the supply of the Services to which the invoice relates. All payments shall be made within 30 days of the date of LQM's invoice. All payments shall be made by the Client by a cheque or bank transfer to the account of LQM at a bank to be nominated in writing by LQM.

4.3 Where any payment owed by the Client to LQM under the Contract is overdue: (i) interest will be chargeable on the sum due before and after judgment on a day-to-day basis at an annual rate of 8 per cent above the Bank of England base rate from time to time applicable, until the sum due is paid; and (ii) LQM may withhold any supply of Services due to be made under the Contract until arrangements as to payment or credit have been established which are satisfactory to LQM.

5 Rights

5.1 The ownership of all intellectual property rights and proprietary rights in any report, survey, opinion or other document prepared by LQM as part of the Services, whether provided in writing or on magnetic or any other media, shall remain vested in LQM.

5.2 LQM grants the Client a non-exclusive, irrevocable, royalty-free licence to use and reproduce any report, survey, opinion or other document prepared by LQM as part of the Services and all intellectual property rights in any such report, survey, opinion or document for any purposes for which the same was prepared ("Purposes"), provided that LQM shall not have any liability for any use or reproduction by the Client or any third party of any such report, survey, opinion or document or any of the intellectual property rights therein for any purpose other than the Purposes and the Client shall indemnify LQM against any loss, damage, costs or expenses of whatsoever nature suffered by LQM as a result of any such use or reproduction.

5.3 All reports, surveys, opinions and other documents prepared or commissioned by LQM as part of the Services will be treated by LQM as confidential information of the Client and will not be disclosed or passed to any third party by LQM without the prior consent of the Client, unless the same shall have already been made public by the Client or otherwise shall have entered the public domain otherwise than through a breach by LQM of this Condition.

5.4 All the reports, surveys, opinions and other documents referred to in Condition 3.1 will be prepared exclusively for the Client. LQM will accept no liability of whatsoever nature for any claims from any third parties to whom the contents of such reports, surveys, opinions and other documents are made known directly or indirectly by the Client and the Client shall indemnify LQM against any loss, damage, costs or expenses of whatsoever nature suffered by LQM as a result of any such claim.

5.5 Save as otherwise expressly agreed in writing between the parties, the Client warrants that its publication in the open literature of any reports prepared in whole or in part by LQM as part of the Services, or of any other works derived in whole or in part from any such report, will acknowledge the authorship, co-authorship or other contribution of LQM in accordance with usual academic conventions.

5.6 Save as otherwise expressly agreed in writing between the parties, LQM retains the right to include reference to the Services in its promotional material, provided that no such reference shall include any confidential material of the Client.

5.7 Materials provided by LQM may not be published on the web except by express agreement in writing between the parties. The Client warrants that any materials which are to be published on the web will be in a view only format.

6 Obligations of the Client

Throughout the continuation of the Contract, the Client shall insofar as is reasonably possible afford LQM such access to such sites and facilities, samples, information, records and other material of the Client as LQM may require to provide the Services to the Client under the Contract, provided that the Client shall be obliged to afford such access only during its normal business hours. Furthermore, the Client shall:

6.1 advise LQM of the rules and regulations which are then in force for the conduct of personnel at any site at which LQM is providing the Services and LQM shall comply with all rules and regulations of which it is advised by the Client;

6.2 make available all such working space and facilities at any site at which LQM is providing the Services as LQM may reasonably require. Such working space shall be comparable to but not better than those given by the Client to its own personnel of similar status;

6.3 make available such appropriate personnel to liaise with LQM as LQM may reasonably require to provide the Services to the Client under the Contract;

6.4 secure and otherwise keep safe all and any property of LQM located at any site at which LQM is providing the Services; and

6.5 take all reasonable steps to comply with applicable health and safety requirements while LQM is present at any site at which it is providing the Services.

7 Limitation of LQM's Liability

7.1 LQM does not exclude or restrict its liability for death or personal injury resulting from its negligence or for fraudulent misrepresentation.

7.2 Save as otherwise expressly provided in these Conditions, in the event that any of the Services are materially deficient as a result of LQM failing to provide the same in accordance with Condition 3.1, the extent of LQM's liability shall be limited to the re-performance of those Services at its own cost up to the amount paid by the Client for such Services under the Contract.

7.3 Save as otherwise expressly provided in these Conditions, LQM shall not be liable for any economic loss (including, but not limited to, loss of profits, business, contracts, revenue, goodwill, data and anticipated savings) or any indirect or consequential loss of whatsoever nature or kind and howsoever sustained or occasioned.

7.4 Save as otherwise expressly provided in these Conditions, LQM's liability to the Client under the Contract shall cease upon the expiry of one year from the termination of the Contract, save in respect of any claims notified in detail to LQM in writing by the Client prior to the expiry of such period.

8 Insurances

LQM undertakes to obtain and maintain insurance cover for Public Liability and, on request, Professional Indemnity Insurance during the course of providing the Services to the Client under the Contract. Details of these insurance policies will be made available by LQM to the Client upon request.

9 Confidentiality

Neither party shall disclose to any third party any confidential information of or about the other received in the course of the Contract, except for information in the public domain other than through a breach of this Condition or any other obligation of confidence.

10 Termination

10.1 The Contract shall terminate automatically on completion of the Services by LQM in accordance with the Proposal.

10.2 Either party may immediately terminate the Contract by giving the other notice in writing if the other: (i) commits a breach of the Contract, which (in the case of a breach capable of remedy) shall not have been remedied within 30 days of the receipt by the other of a notice from the innocent party identifying the breach and requiring its remedy; or (ii) becomes unable to pay its debts or ceases to carry on business.

10.3 Termination of the Contract for any reason shall not affect any rights and liabilities that have accrued to either party prior to termination, including (but not limited to) LQM's right to receive payment for work done under the Contract up to and including any notice period.

11 Force Majeure

11.1 LQM shall not be in breach of the Contract if the provision of any of the Services is delayed or prevented by the Client's failure to provide any access, facilities, samples, information, records or other material, fire, storm or tempest, unavailability of labour, materials or services, process shutdown, Acts of God or the public enemy, riot, civil commotion, war or terrorism, strikes, labour disputes or industrial action, act of government or state or any other event beyond LQM's reasonable control ("Event of Force Majeure").

11.2 If at any time LQM has to rely on Condition 11.1, LQM shall promptly notify the Client of the nature and extent of the Event of Force Majeure giving rise to its reliance on Condition 11.1.

11.3 If any Event of Force Majeure lasts for a continuous period in excess of 30 calendar days after the date on which it began, either party may give notice to the other party terminating the Contract and LQM shall not have any liability to the Client in respect of any termination of the Contract due to an Event of Force Majeure.

12 General

12.1 The Contract embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral and written agreements, representations, understandings and arrangements relating to the subject matter of the Contract.

12.2 No failure or delay on the part of either party to exercise any right or remedy under the Contract shall be construed or operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy as the case may be.

12.3 LQM shall be entitled to sub-contract any of its obligations under the Contract to any third party without the Client's consent.

13 Notices

Any notice to be given under the Contract shall be in writing and sent by telex or facsimile transmission or forwarded by first class prepaid post to the receiving party at its business address as last notified in writing to the other party and shall be deemed to have been given on the date of the telex or facsimile transmission or on the day following that on which the notice was posted.

14 Third Party Rights

The Contract does not create any right enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

15 Governing Law and Jurisdiction

The Contract shall be governed by English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.