

## TERMS AND CONDITIONS

### 1. Interpretation.

1.1 In these conditions the following terms have the following definition:-

**‘Customer’** - the person named in the order for services accepted by the Company.

**‘Company’** – ‘Scott Safety Services Ltd (Limited), ‘think asbestos’, ‘ADSCS’, ‘think legionella’, ‘think fire risk’ and ‘think energy saving’

**‘Conditions’**- means the Terms and Conditions set out in this document together with any special Terms and Conditions agreed in writing between the Customer and the Company.

**‘Contract’** - means the quote provided by the Company to the Customer together with the Conditions.

**‘Relevant Material’** – means data, drawings, documents, plans, test results and other information prepared by or on behalf of the Company in connection with the supply of the Services.

**‘Services’** – means the services set out in the quote.

1.2 The Customer’s standard terms and conditions (if any) do not form part of the Contract.

1.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 2. Services

2.1 The Company shall provide the Services as agreed between the parties and the Customer shall pay for the same in accordance the Conditions.

2.2 These Conditions shall be binding and no variation is allowed unless agreed between the parties in writing upon reasonable notice.

2.3 Representations made by the Company’s employees and agents in relation to the Services are not binding unless authorised by the Company in writing. The Customer confirms that it does not rely on any such representations and waives any right to claim for any breach of any such representations now or in the future.

2.4 The Customer will allow the Company unrestricted access to the premises in order for the Company to carry out tests/inspections if necessary and in general examine the physical conditions of the premises. The Company will prepare a report upon its observations.

2.5 In the event that the Company cannot gain access to the premises or a specific area of the premises then the Customer acknowledges that the Company is not obliged to

provide services for that particular area and include it in its report. In addition, the Customer acknowledges that in general buildings cannot be declared asbestos free. As such, this cannot be accounted for in any report except when the survey is conducted in conjunction with a demolition contractor at the final demise of a building.

2.6 The Company may alter the quote from time to time and without notice in order to conform with statutory requirements and general safety regulations.

### **3. Assignments and Sub-Contracting**

The Company reserves its right to sub-contract the whole or any part of the work identified in the Order for Services in agreement with the customer.

### **4. Price of Service**

4.1 The Customer will pay the price to the Company (being the price as specified in the Order for Services as agreed between the parties) in consideration of the Company performing the Services as agreed.

4.2 The Company reserves the right by giving notice to the Customer at any time before commencement of the Services to increase the price to reflect any increase in the cost to the Company which is due to a factor beyond its control (such as, without limitation, any significant increase in the costs of labour, materials or other costs of manufacture, any foreign exchange fluctuation, currency regulation or alteration of duties) or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.

### **5. Payment Terms**

5.1 The Customer shall pay the Company's invoice within 30 days of the date of issue of the invoice for all services it offers and is appointed to carry out, verbally or in writing. Payment will be deemed to have been received upon receipt of cleared funds.

5.2 If payment is not made within 30 days of the date of issue of the invoice, the Company will be entitled to charge the Customer interest and compensation under the Late Payment of Commercial Debt (Interest) Act 1998 at the rate of 13% per annum from time to time until payment is made in full. Non payment of funds in relation to any EPC service will result in any agreed works being postponed until such time as payment is received.

5.3 In addition the Company will be entitled to seek costs of recovery from the Customer of any outstanding amount including Legal Costs and disbursements and charge any Bank Charges incurred upon re-presenting cheques or requesting special clearance thereof.

## **6. Force Majeure**

6.1 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to the Services if the delay or failure is due to any cause beyond the Company's reasonable control (such as, without limitation, the Customer's failure to provide facilities, access or information; fire or storm; unavailability of labour; acts of God, riot or civil commotion or war; strikes or labour disputes or industrial action; the presence of unusually high levels of ionising radiation or radio active substances 'Force Majeure').

6.2 If the Company is prevented from performing its obligations under the Contract as a result of Force Majeure for more than 90 days either party may terminate the Contract by written notice to the other. In that event, neither party will have any liability to the other except that rights and liabilities which accrue prior to such termination will continue to subsist.

## **7. Confidentiality and Intellectual Property.**

7.2 All Intellectual Property rights in any material belong to the Company and the Customer will at no point dispute ownership.

7.2 Both parties will use all reasonable endeavours to keep confidential (equally ensuring that their employees and/or agents keep confidential) all information received by them relating to any part of the business and affairs of the other party provided that such information is not already in the public domain or becomes publicly known through no wrongful act of the party concerned or is required to be disclosed by law or by statutory requirements or is to be disclosed to any advisor of either party bound by a professional duty of confidentiality.

## **8. Warranties**

8.1 The Company warrants to the Customer that where regulation dictates it will utilise the services of an UKAS accredited sub-contractor with sufficient insurance to meet the requirements of this contract (with the exception of advice and consultancy) and these services will be provided in accordance with the accredited procedures of UKAS. The Company warrants to the Customer that it shall use all reasonable endeavours to ensure work is carried out with reasonable skill, care and diligence whilst undertaking the Service of a level expected of a suitably qualified and experienced surveyor. The Customer warrants that all information provided by it is true, accurate and not misleading.

8.2 The Company intend to use Eton Analytical Ltd, UKAS No. 2734, for testing of samples. If you have a preference or require any other laboratory to carry out your work please let us know.

8.3 The express purpose of the report issued under the Service is to provide compliance with HSG 264 survey types to those with the responsibility for the control and use of the premises, in this case deemed to be the Principal or Duty Holder, so that said Principal or Duty Holder may be better informed and advised when undertaking all

Risk Assessments required under the Control of Asbestos Regulations 2012 and any associated, ancillary supervening or superseding legislation and under which there is a duty on the Principal to manage asbestos in the workplace. Removal services will be carried out under the companies HSE license for licensable asbestos works. All removals will be carried out in accordance with our approved in house Standard Operating Procedures (SOP's) and guidance offered in HSG247. All other services will be carried out within guidance offered to them services.

## **9. Limitation of Liability**

9.1 Except as is expressly provided in this Contract and so far as is permitted by statute or warranties, conditions, guarantees or representations, express or implied, statutory or otherwise are hereby excluded and the Company shall not be liable for any loss, damage, expense or injury of any kind whatsoever, consequential or otherwise, arising out of due to or caused by any defects or deficiencies of any sort in the Services whether such defects or deficiencies are caused by the negligence of the Company or its employees or other agents or otherwise.

9.2 No liability is accepted by the Company for loss or damage howsoever caused to any goods or samples submitted for examination by the Customer. In the event that the Company is requested by the Customer to obtain samples direct from a building during the course of an inspection, the Company accepts no liability for any damage caused in obtaining the sample material.

9.3 Nothing in this Contract shall limit or exclude the Company's liability for death or personal injury resulting from the negligence of the Company or its employees or agents. The Customer shall indemnify and keep the Company indemnified against all costs, expenses, damage or other losses incurred or suffered by the Company as a result of any claims made against the Company due to the infringement of any regulation, enactment or legislation by the Company.

9.4 Subject to clause 9.3 and 9.6, the entire liability of the Company in connection with this Contract or for any other duty to the Customer or for negligence in connection with this Contract is limited to £100,000.

9.5 The Customer is under a duty to mitigate any losses howsoever caused.

9.6 The Company is not liable to the Customer for any indirect or consequential loss or damage or loss of profits, business, revenue, data, goodwill or anticipated savings howsoever and whenever arising.

9.6 The Customer acknowledges and agrees that the Limitation of Liability contained in this clause is fair and reasonable, reflected in the level of charges and of insurance covered carried by the Company and just and equitable having regards to the extent of the responsibility of the Company for any loss or damage suffered.

## **10. Termination**

10.1 Either party may terminate the Contract immediately upon written notice to the other if the other party:-

10.1.1 Fails to pay any sums due under the Contract or otherwise breaches any of the terms of the Contract and fails to remedy the breach within 30 days after having been put on notice; or if either party 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 liability or the party otherwise becomes insolvent or suspends payment or threatens to do so or ceases to trade or makes any voluntary arrangement with its creditors or becomes bankrupt or (being a Company) goes into liquidation or convenes a meeting of creditors, or a resolution is passed for a petition presented to any court for the winding up of the party or a receiver is appointed or the Customer ceases or threatens to cease to carry on business.

10.2 Such termination or suspension is without prejudice to any rights accrued or obligations of the parties under the terms of the Contract.

10.3 Upon termination of suspension the Company will be entitled to proceed against the Customer for any sums owing under the Contract for work undertaken and costs incurred prior to the date of termination and or suspension.

## **11. Non-Solicitation of Staff**

11. The Customer shall not entice or seek to entice away from the Company to work for its business whether as principal, agent, partner, director, employee, secondee or consultant, any person who is or was employed or engaged by the Company in providing the Services.

## **12. Publicity**

12.1 The Company's name shall not be used in connection with the Contract for publicity, promotion or advertising without the prior written consent of the Company.

## **13. General**

13.1 Any notice permitted or required to be given by other party under the terms of this Contract must be writing and either delivered personally or sent by first class recorded delivery to the other party's address.

13.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision under the Contract

13.3 Any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder or the provision in question shall not be affected thereby.

13.4 The parties acknowledge that, except as specifically provided in this Contract, it is not their intention that any third party shall be entitled to enforce any term of this

Contract which may confer a benefit on that third party, whether any such entitlement would, but for this provision, arise under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

13.5 This Contract will be governed by and construed in accordance with English law and each party submits to the exclusive jurisdiction of the English Court.