

Inspectas Compliance Ltd**TERMS AND CONDITIONS OF APPOINTMENT****1 General**

- 1.1 These Terms and Conditions of Appointment ("Conditions") and the attached fee quote (the "Fee Quote") shall constitute the contract (the "Contract") between the Client and Inspectas Compliance Ltd (the "Company").
- 1.2 This Contract shall be governed by and construed and interpreted in accordance with English law, and the parties submit to the non-exclusive jurisdiction of the English courts.
- 1.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 1.4 No waiver by the Company of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 1.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder or the provision in question shall not be affected thereby.
- 1.6 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.

2 Definitions

- 2.1 The following definitions shall apply to this Contract:

"Additional Services" means any additional services undertaken by the Company beyond the Services.
"Client" means the individual or organisation identified as the client in the Fee Quote and who accepts a quotation of the Company for the provision of the Services or whose order for the Services are accepted by the Company.
"Company" means Inspectas Compliance Ltd.
"Conditions" means the standard terms and conditions relating to our Services as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Client and the Company.
"Fees" means the fees for the performance of the Services and Additional Services if any.
"Fee Quote" means the fee proposed in writing by the Company to the Client in relation to the Services and or scope of Services to be provided by the Company.
"Insolvency" means any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization or other similar proceedings (either voluntary or compulsory) in connection therewith, relative to the Client or to its creditors, as such, or to its assets, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of the Client, whether or not involving insolvency or bankruptcy.
"Output Material" means data, drawings, plans, documents, test results and other information prepared by the Company in relation to the Services.
"Services" means the normal services described in the Fee Quote and/or scope of service which the Company undertakes to perform for the Client under the Contract.
"Site" means the site stipulated as such on the attached Fee Quote subject to clarification at the start of the Services.
"Supplier" an individual, sub-contractor, sub-consultant which the Company deems competent to undertake the Services or part of Services on the Company's behalf.
'writing' includes electronic mail, facsimile transmission and comparable means of communication any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

3 Obligations of the Company

- 3.1 The Company shall exercise reasonable skill, care and diligence in the performance of the Services.
- 3.2 Subject always to conditions beyond his reasonable control the Company shall use reasonable endeavours to perform the services in accordance with the program and any subsequent programs agreed between the Company and the Client.

- 3.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance or offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- 3.4 No order submitted by the Client shall be deemed to be accepted by the Company unless and until confirmed in Writing by the Company's authorised representative.
- 3.5 No order which has been accepted by the Company may be cancelled by the Client except with the agreement in Writing of the Company and on condition that the Client shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as the result of cancellation.
- 3.6 The Company reserves the right to make any changes in the specification of the Services which are required to conform with any safety or other statutory requirements.

4 Obligations of the Client

- 4.1 The Client shall use his reasonable endeavors to provide to the Company without charge and in such time so as not to delay or disrupt the performance of the services by the Company all necessary and relevant data and information in the possession of the Client, his agents, servants, other suppliers and give such assistance and make such decisions as shall reasonably be required by the Company in the performance of the Services and the Company shall be entitled to rely on such data, information, assistance and decisions.
- 4.2 The Client shall provide the Company with such access to the Site and any facilities as may be reasonably required by the Company for the purposes of performing the services.
- 4.3 The Client shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Client, and for giving the Company all necessary information relating to the Services within a sufficient time to enable the Company to perform the Services under the Contract in accordance with its terms.

5 Price of Service

- 5.1 The price of the Services shall be the Company's quoted price known as the "Fee" and provided in the Fee Quote. All prices quoted are valid for 90 days only or until earlier acceptance by the Client, after which time they may be altered by the Company without giving notice to the Client.
- 5.2 The Company reserves the right by giving notice to the Client at any time before commencement of the Services, to increase the price of the Services to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company including without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture, or any delay caused by any instructions of the Client or failure of the Client to give the Company adequate information or instructions.
- 5.3 Value Added Tax ("VAT") will be charged at the rate applicable at the tax point at the time of invoice. Where the Client is registered for VAT within the European Union but outside the United Kingdom the work will be zero-rated provided the Company has been notified of the Client's VAT registration number. If the Client has not notified the Company of its VAT status, VAT at the rate applicable at the tax point shall be charged and is payable.

6 Additional Fees

- 6.1 If the Company is required to carry out Additional Services and/or suffers delay or disruption in the performance of the Services for reasons beyond the Company's control the Client shall be liable for the Company's fee relating to the provision of the Additional Services (which shall relate to without limitation the additional costs and resources employed).
- 6.2 Where practicable and if so requested by the Client the Company shall give an initial estimate of the additional payment likely to be incurred.
- 6.3 The Client shall make the additional payment to the Company in respect of the Additional Services carried out.

7 Payment

- 7.1 Payment by the Client to the Company for the performance of the Services shall comprise the Fees and expenses as set out in the Fee Quote and scope of Services or agreed schedule.
- 7.2 The Company shall send an invoice to the Client monthly (or such other period as agreed) in arrears for each instalment of the Fees and other sums payable under this Contract. Each invoice shall specify the sum which the Company considers will

become due on the due date and the basis on which that sum is calculated. Payment due to the Company under this Contract shall become due on submission of the Company's invoice (the "due date"). Unless another date is stated, the final date for payment shall be 30 days thereafter (the "final date for payment"). Interest shall be calculated in accordance with the Late Payments of Commercial Debts (Interest) Act 1998.

- 7.3 The Company's invoice shall be the payment notice for the purposes of Section 110 A(1) of the Housing Grants, Construction and Regeneration Act 1996 as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009.
- 7.4 On or before the final date for payment the Client shall pay to the Company the sum stated as due in the Company's invoice issued (the "Notified Sum").
- 7.5 Not later than seven days before the final date for payment, the Client may give the Company a notice that it intends to pay less than the Notified Sum (a "pay less notice"). Any pay less notice shall specify the sum which the Client considers to be due to the Company on the date the notice is served and the basis on which that sum is calculated. Where a pay less notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated in the pay less notice.
- 7.6 All Fees are exclusive of Value Added Tax, the amount of which, at the rate and in the manner prescribed by law, shall be paid by the Client to the Company unless agreed otherwise.
- 7.7 The Client's purchase order number to be quoted on any Company invoice is to be confirmed.
- 7.8 The Company shall maintain records of all time spent by its professional and technical staff in performing the Services and any Additional Services under this agreement and shall provide such timesheets with the Company's invoices if requested.
- 7.9 If the Client fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
 - 7.9.1 Cancel the Contract or suspend any further provisions of the Services to the Client. Any such period of suspension shall be disregarded for the purpose of contractual time limits previously agreed for the completion of the services.
 - 7.9.2 Under the Late Payment of Commercial Debts (Interest) Act 1998, charge the Client interest (both before and after any judgement) on the amount unpaid, at the rate of 8% per annum above (Barclays Bank) base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); and
 - 7.9.3 Charge the Client the costs of recovery of any outstanding amount including legal costs and disbursements and charge any Bank charges incurred on representing cheques or requesting special clearance thereof.

8 Insurance

- 8.1 The total aggregate liability of the Company for Professional Indemnity Insurance under or in connection with this Contract whether in contract or in tort, in negligence, for breach of statutory duty or otherwise (other than in respect of personal injury or death) shall not exceed £1,000,000 (one million pounds) unless specifically agreed in writing between the Company and the Client.
- 8.2 The Company's liability in respect of asbestos, pollution or contamination whether in contract or in tort, in negligence, for breach of statutory duty or otherwise (other than in respect of personal injury or death) is excluded.
- 8.3 No action or proceedings under or in respect of this Contract, whether in contract or in tort, in negligence or for breach of statutory duty or otherwise shall be commenced against the Company after the expiry of six (6) years after the completion of the Services or the termination of this Contract if earlier.
- 8.4 The Client agrees that they shall not to pursue any claims in contract, tort or in negligence or for breach of statutory duties or otherwise against any individual as a result of carrying out its obligations under or in connection with this Contract at any time whether named expressly in this agreement or not.
- 8.5 A failure by the Company to fulfill its obligations under this Contract shall not be considered to be a breach of this Contract insofar as such failure arises due to any event beyond the reasonable control of the Company.
- 8.6 The Company shall maintain public liability insurance appropriate for the instruction, our cover is limited to £10 million any one claim.
- 8.7 As and when reasonably required by the Client the Company shall produce for inspection satisfactory documentary evidence of insurance being properly maintained and confirm that payment has been made in respect of the last preceding premium due under it.

- 8.8 The Company shall comply with all conditions and obligations of such insurance policy and shall immediately inform the Client if such insurance ceases to be maintained or ceases to be available generally in the market of the Company at commercially reasonable rates and on reasonable terms.
- 8.9 The Company shall not knowingly do or omit anything whereby the insurance policy for the time being in force may become void or voidable.

9 Contracts (Rights of Third Parties) Act 1999

- 9.1 Nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

10 Publicity

- 10.1 The Company's name shall not be used in connection with the Contract for purposes of publicity promotion or advertising without the prior written approval of the Company. The Company may publish or join in publishing any description or illustration of the works with the prior consent of the Client.

11 Termination and suspension

- 11.1 The Company may at its discretion suspend or terminate the Contract and supply of Services if:

- 11.1.1 the Client fails to pay any sums when due or otherwise materially breaches any of the terms of the Contract or any other terms agreed with the Company; or
- 11.1.2 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
- 11.1.3 the Client makes any 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
- 11.1.4 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
- 11.1.5 the Client ceases, or threatens to cease, to carry on business; or
- 11.1.6 there is a change of control of the Client and or the Client's group;
- 11.1.7 where the Client is an individual or partnership, he or any partner dies; or
- 11.1.8 outside England and Wales anything corresponding to any of the above occurs; or
- 11.1.9 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client.

- 11.2 In the above cases the Client shall notify the Company forthwith in writing of such event and in all cases the Company may (at its discretion, whether or not it has received notice from the Client as aforesaid, and without prejudice to its other rights hereunder or otherwise) at any time by notice to the Client do any one or more of the following:

- 11.2.1 terminate, cancel and/or rescind the Contract and other contracts with the Client;
- 11.2.2 declare immediately due, payable and interest-bearing any amounts owed by the Client to the Company under any contract;
- 11.2.3 suspend the provision of any Services to the Client;
- 11.2.4 commence proceedings against the Client for any sums owing under the Contract and/or damages, as appropriate.

- 11.3 Upon such terminations Company reserves the right to retain deposits made by the Client and in such case the Client shall forfeit the deposits to the Company.

- 11.4 The Client shall pay all monies accrued and due to the Company up to the date of such termination following submission of the Company's invoice.

11.5 Termination of the Company's appointment under this Contract shall not prejudice or affect the accrued rights or claims of the Company in respect of fees accrued and due to the Company.

12 Assignment

12.1 Neither party may assign or transfer any benefit or obligation under this Contract without the prior written consent of the other party unless by prior written agreement.

13 Sub-contracting to "Supplier"

13.1 The Company will use all reasonable endeavors to perform the Services using its own staff. However, the Company reserves its right to sub-contract the whole or part of the work and will notify the Client accordingly.

13.2 The Company may sub-contract the performance of any of the specialist services to a "supplier". The Company shall be responsible for the performance and the payment of any supplier.

14 Force Majeure

14.1 The Company shall not be liable to the Client 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 was due to any cause beyond the Company's reasonable control.

15 Accuracy

15.1 Any Assessments provided by the Company comprising advice, data and conclusions are based on information supplied by the Client and evidence gathered at the time of the Assessment. The Client shall supply all necessary information, data, drawings and items necessary to the timescale required by the Company.

15.2 Any report produced by the Company for the benefit of the Client relates solely to the goods or samples reported on and not bulk from which the goods or samples were drawn

16 Confidentiality and Intellectual Property

16.1 The Company is registered under the Data Protection Act 1998.

16.2 The Company may consult or register information about the Client and the conduct of the Client's account with a licensed credit reference agency. The Company may also consult a licensed credit agency about any credit information that they hold on the Client, or the Client's principal directors. The Company will keep a record of that search either on computer or on manual records.

16.3 As part of its marketing policy the Company may send to the Client from time to time details of its products and services. If the Client does not wish to receive these details then please contact Inspect Compliance Ltd at www.inspectas.co.uk or email info@inspectas.co.uk.

16.4 The property, and any copyright, design rights or other intellectual property rights in any Output Material shall, unless otherwise agreed in Writing between the Client and the Company, belong to the Company, but the Client shall be entitled to use the Output Material for the purposes of utilising the Services by way of an exclusive licence, subject to payment in full of all sums payable under this contract.

16.5 Any information provided by the Client which is so designated by the Client and any Output Material shall be kept confidential by the Company, and all Output Material or other information provided by the Company which is so designated by the Company shall be kept confidential by the Client; but the foregoing shall not apply to any documents or other materials, data or other information which either party is required to disclose by law or by statutory requirements or which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

16.6 The Output Material is prepared exclusively for the Client for the purposes of the Contract and may not under any circumstances be used by any third party. The Company is not liable for any Output Material so used and the Client shall indemnify the Company against all liability and loss, damages and expenses awarded against or incurred by the Company in connection with any claims by third parties in connection with such use of the Output Material. Client shall have an irrevocable royalty-free, non-exclusive license to use all completed drawings and other documents issued to the Client, other suppliers or contractors for the purpose of the services. In the event of the Client being in default of payment of any

Fees or other amounts due to the Company under this Contract, the Company may revoke the license herein granted on seven days' written notice to the Client. The Company shall not be liable for the use by any person of any such drawings or documents for any purpose other than that for which the same were prepared by or on behalf of the Company.

- 16.7 While the Company is not aware, to the best of its knowledge, that any Output Material is in infringement of any design rights, copyright or other intellectual property rights of any third party, it does not give any particular warranty in this respect.

17 Warranty and Limitation

- 17.1 The Company warrants to the Client that it is working in line with its documented Quality Management System.
- 17.2 The Company shall not be liable to any third party who seeks to use the Services without the Company's express written permission for any loss, damage, expense or injury 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 whether such defects or deficiencies are caused by the negligence of the Company or its employees or agents or otherwise.
- 17.3 The Company shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any instructions supplied by the Client which are incomplete, incorrect, inaccurate, or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client.
- 17.4 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 that of its employees or agents.
- 17.5 The Client 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 Client.
- 17.6 The Client is under a duty to mitigate any losses howsoever caused.
- 17.7 The Client acknowledges and agrees that the limitation of liability contained in this clause is:
- 17.7.1 fair and reasonable;
- 17.7.2 reflected in the level of charges and of insurance cover carried by the Company;
- 17.7.3 just and equitable having regard to the extent of the responsibility of the Company for any loss or damage suffered, on the basis that all other consultants, the contractor and any subcontractors who have a liability shall be deemed to have provided contractual undertakings to the Client on terms no less onerous than those contained in this Contract.

18 Law Dispute Resolution and applicable Law

- 18.1 Any dispute or difference arising out of or in connection with this Contract shall be referable at the option of either party to adjudication. The person who is to act as the adjudicator shall be agreed between the Client and the Company, the preferred adjudicator will be agreed between both parties' solicitors.
- 18.2 The contract shall in all respects be subject to and construed in accordance with English Law and the Client submits to the exclusive jurisdiction of the English Courts.

19 Non-Solicitation

- 19.1 Neither party shall (except with the prior written consent of the other party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other party any person employed or engaged by such other party in the provision of the Services or in the receipt of the Services at any time during the period in which the Services are performed by the Company or for a further period of 12 months after the termination of this Contract, other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other Party.