



# C·A·T

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## Terms & Conditions of Trade

In these Terms and Conditions, the following words and expressions shall have the following meanings:

The '**Client**' means the person or organisation awarding the Contract. An Agent acting for a third party shall be deemed to be the Client unless designated in writing by the third party;

The '**Contract Price**' means the agreed fee or scale of charges for the Work, subject to such alterations as may be made under the provisions hereinafter contained;

The '**Contract**' means the agreement concluded between the Client and the Contractor, including these Terms and Conditions, all Specifications if present and other documents which are relevant to the Contract;

The '**Contractor**' means Canterbury Archaeological Trust Ltd, its permitted assigns and successors, whose Contract Price for the Work is accepted by and on behalf of the Client;

The '**Specification**' means the Written Scheme of Investigation (WSI) provided or approved by the relevant local authority planning or archaeological officer or by a comparable regulatory body (ie Historic England);

The '**Fieldwork**' means all or part of the physical archaeological investigation in accordance with the Specification. The following is a non-exclusive list of fieldwork tasks: machine stripping and trench cutting; hand trowelling and cleaning; excavation; site data recording and surveying; finds recovery, initial preservation and processing; preliminary data processing;

'**Post Excavation**' means all work subsequent to The Fieldwork event(s) that is pertaining to the Specification. The following is a non-exclusive list of the post-fieldwork tasks that may be undertaken: finds and environmental processing, analysis, preservation and conservation, data recording and processing, production of plans, documentary research, specialist and other report(s) compilation, writing and editing, pre-press and publication, archiving and accessioning;

The '**Reports**' means written accounts, listings, drawings, digital data, photographs, illustrations or any other supporting documentation;

The '**Work**' means Fieldwork, Post Excavation and any other service, such as Historic Building Surveying and Recording and Desk-based Research or Analysis, to be executed and supplied by the Contractor in accordance with the Specification and including any additional work as described in clause 7;

The '**Purpose**' means the use for the Work as stated in the Contract;

The '**Tender Period**' means the period of time between the Contractor receiving an invitation from the Client to provide a tender, fee proposal, estimate or fixed price quotation for the work and the date by which the Contractor submits this.

1. The Client warrants that all relevant information has been provided regarding the nature and scope of the Work and any unusual conditions, which may apply. To the extent that it is reasonably possible during the Tender Period, the Contractor shall be deemed to be satisfied as to the nature and requirements of the Work, the conditions under which the Work will be completed and the correctness and sufficiency of the costings, before submitting it.
2. The several documents forming the Contract are to be taken as mutually explanatory of each other and in cases of discrepancy the Specification shall prevail.
3. The Contractor shall not be obliged to commence the Work until requested in writing to do so by the Client. Unless otherwise stated a minimum of 5 working days' notice is required.
4. Once Work has commenced the Client shall not cancel the Contract without compensating the Contractor in full for the Work done to notification of cancellation together with a payment of 40 per cent of the Contract Price remaining.
5. The Contractor shall execute and complete the Work in conformity with the Specification and by the completion date(s) agreed or in the case of reports the delivery date(s) agreed. The Contractor shall supply and provide for all matters necessary for the completion of the Work, at the expense of the Contractor, except as specifically provided for in the Contract. In the case of fieldwork, completion is deemed to be the point at which the local authority archaeological officer formally signs it off as satisfactorily executed according to the Specification. Any reports required by the Specification shall be delivered to the Client or, by instruction, to a Third Party. Where delivery is refused or where the Contractor is unable to deliver due to circumstances beyond his control, the Contractor is entitled to treat the Contract as being fulfilled and invoice the Client accordingly. Work which the Client reasonably considers fails to meet the standards contained in the Specification shall be returned to the Contractor within 14 days of receipt for correction at the Contractor's own expense. If such Work is found, on being checked by the Contractor, to be within the standards specified then the costs incurred by the Contractor in checking shall be payable by the Client.

6. The Work shall be completed in accordance with the agreed programme and dates or within such time as may be agreed with the Client. Any request by the Contractor for extension of time shall be made in writing, to the Client within seven days of the Contractor being aware of such need arising.
7. The Work is to be performed without interruption during The Contractor's normal working hours. The Contractor has made no allowance for any abnormal working such as at night or weekends. The Contractor will require payment at an hourly rate detailed in its offer for all delays due to circumstances beyond its control.
8. Circumstances may occur which will cause the Specification to be altered. Or circumstances may arise which require additional Work to be undertaken beyond the original scope. In either situation the Client will be responsible, in full, for charges that may result from this additional work. Here is a non-exclusive list of possible circumstances which may arise:
  - i. The need to deal with unanticipated or exceptionally complex archaeology, special finds or burials.
  - ii. Delays or pauses in fieldwork activities which are beyond the control of The Contractor and which may also result in work being extended beyond any agreed time period.
  - iii. The area under investigation requiring clearing, draining or dewatering, prior to or during fieldwork operations.
  - iv. The presence of above and below ground services unduly affecting the working methodology.
  - v. Adverse weather conditions causing delays or affecting the working methodology.
  - vi. Soil contamination requiring any special measures, materials and/or equipment.Such variations shall be valued at the rates set out in the Contract where applicable or failing this at new rates to be agreed between the parties. Where variations to the Work would affect the total cost by more than 10 per cent, the Contract price shall be renegotiated at the request of the Contractor. The Contractor may sub-contract part of the Work, whilst accepting full responsibility for the Work as if it had not been sub-contracted.
9. Where it is necessary for the Contractor to have access to private property the Client will be responsible for obtaining any necessary permission. The Client will also furnish the Contractor with a list of the occupiers and any letters of identification, which may be needed.
10. Unless specifically agreed, no allowances have been made for reinstatement other than the replacement of arisings with the plant and / or personnel appointed. The rates include for backfilling exploratory trenches, test-pits etc with arisings only as a safety measure and not in a manner that is equivalent to the strength of the original ground. The Contractor has not allowed for any further reinstatement subsequent to the original backfilling and accepts no liability for any loss or damage as a consequence of reusing arising materials as backfill.
11. The Client or its authorised representative, may at any reasonable time consult on or examine any part of the Work or any archaeological material remains intended for use therein and the Contractor shall give every reasonable facility and assistance necessary. The cost of making any test, providing facilities or assistance shall be borne by the Client.
12. Invoices will be submitted by the Contractor to the Client at monthly intervals for work completed, together with such payments as are due to Third Party specialist sub-contractors. Payment will be made within 21 days of the date of invoice. The Contractor may charge interest at a rate of 4 per cent over Base Lending Rate per month, on a daily basis on overdue accounts. Payment due to the Contractor in accordance with the Contract will be made without deduction or set-off whether or not either party is under obligation still to perform. Only the final payment shall be taken as admission of the due performance of the Contract. The Contractor reserves the right to recall all supplied data for the Works if the Client refuses payment of any outstanding invoices.
13. The Contractor shall hold or effect policies of insurance to cover Public Liability for not less than £5M, Employers Liability for not less than £5M and Professional Indemnity cover for not less than £1m.
14. The Contractor will accept no liability for any damage to underground services, where the location of those services has not been indicated to the Contractor in writing by the Site Manager/Agent/Owner. The Contractor shall not be responsible for the insurance of Work installed in or on property under the control of the Client.
15. The Contractor shall accept no responsibility or liability for its Work to any party other than the commissioning Client. The Contractor accepts no liability for any loss or damage suffered by the Client, whether contractual or otherwise, stemming from any conclusions based on data supplied by parties other than The Contractor and used by The Contractor in preparing its reports.
16. In the event of the Client failing to provide such matters as agreed in the Contract, the Contractor shall be entitled to an extension of the Contract period for any consequent delay and to payment for any additional costs that the Contractor may reasonably incur. Should the Contractor be in breach of the Contract the Client may serve written notice on the Contractor specifying the breaches of Contract and requiring them to be remedied within 30 days. Failing such remedy, the Client may terminate the Contract by serving written notice to that effect on the Contractor. The Client will be entitled to use only so much of the Work upon which it has been agreed with the Contractor that payment has been made.
17. In the event of the Client failing to make payments by the due date(s) the Contractor shall have the right to suspend the Work, including fieldwork, until receipt of such payments and to receive payment for any additional cost arising from such suspension. If such period of suspension shall exceed 30 days the Contractor may, on giving the Client 14 days' notice, terminate the Contract without prejudice to any of his other rights under the Contract and be entitled to the compensation laid down in Clause 4.

18. If either party commits an act of bankruptcy or has a Receiving Order made against them the Work may be suspended and the Contract terminated upon written notice being served.
19. The Contractor shall not be liable for any failure to perform the Work either at all or within any particular time if performance is delayed, hindered or prevented by any circumstances beyond the Contractor's control. After a period of seven days from the start of such circumstances either party may give notice to determine the Contract forthwith. The Client shall pay the Contractor for the Work undertaken together with such additional costs to which the Contractor has been committed or might reasonably be incurred.
20. The copyright in the Reports shall remain vested in the Contractor who will grant an irrevocable royalty free licence for use by the Client for any purpose related to the Purpose once payment has been received in full. Such licence may not be transferred to a Third Party without the written agreement of the Contractor. The Contractor may provide Reports prior to the issue of an invoice, under a temporary licence arrangement. The Client shall not remove any markings identifying the Contractor as the owner of the Copyright.
21. Written agreement for transfer to a third party will only be considered if the third party agrees to purchase a new copyright licence from the Contractor for a fee determined by the Contractor.
22. The Contractor and the Client shall respect any confidential documentation or information relating to the Work and make no unauthorised disclosure or use thereof.
23. The Contract shall be governed by and construed according to the law of the Country of Domicile of the party introducing these Conditions into the Contract.

Canterbury Archaeological Trust (CAT) Ltd is a registered organisation with the Chartered Institute for Archaeologists (CIfA) which sets nationally recognised quality standards and operational guidelines, to which CAT Ltd adheres. As part of its Quality Assurance Policy, CAT Ltd operates an internal complaints handling procedure in line with CIfA standards.

**Last amended October 11, 2018**

