



# C·A·T

Canterbury Archaeological Trust Ltd  
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01227 462 062  
admin@canterburytrust.co.uk  
canterburytrust.co.uk

## TENDER

25 October 2023

**Client: Pegasus Group**

**Site: Cross Road, Deal**

**QRef: 4332**

**Job description: Archaeological Evaluation**

Thank you for requesting a quotation for an archaeological Evaluation at the above site. We estimate that 41 No. 30m trenches will need to be excavated to provide an approximate 5% sample of the development area of 4.93 hectares. This is the likely requirement of the LPA's archaeological advisor.

### Costs:

***Written Scheme of Investigation*** **£187.11**

### ***Archaeological Costs***

Project Management (inc RAMS)	£1,009.36
Fieldwork	£9,436.68
Finds and environmental processing	£1,006.50
Reporting and archiving	£2,353.23
Materials and mileage	£370.80
<b><i>Sub-total</i></b>	<b>£14,176.57</b>

### ***Non Archaeological Costs***

Plant (20 tonne excavator) and driver	£4,721.20
Welfare (cabin)	£848.00
<b><i>Sub-total</i></b>	<b>£5,579.20</b>

**Total Evaluation Trenching (exc VAT)** **£19,942.88**

### CONTINGENCIES

#### **Additional 1% of site area**

Archaeological	£3,348.10
Non archaeological	£1,059.30
<b><i>Sub-total</i></b>	<b>£4,407.40</b>

<b>Labour</b>	£53.46
Project Management (office)	
Project Officer (site)	£50.34

Registered Charity no: 278861 · Company Registered no: 1441517 (England)



Senior Archaeologist (site)	£42.33
Archaeologist (site)	£34.12
Finds supervision	£36.52
Finds processing	£32.56
Env supervision	£45.10
Env processing	£32.56
Reporting (Management)	£53.46
Reporting (Project Officer)	£38.72
Reporting (Assistant)	£32.56
Reporting (Copy editing)	£48.40
Archiving	£36.52
<b>Materials</b>	
Plant and driver, p/day	£529.65
Breaker attachment, p/day	£190.00
Plant: delivery/collection (per item)	£242.00
Welfare (cabin)	£330.00
Welfare: delivery/collection (per item)	£44.00
Transport (van), per day	£48.60
Herras fencing (10 x 3.0m panels, plus clips and legs), per week	£45.00

We have assumed the use of a 20 tonne tracked excavator working for 8 days with one Project Officer, one Senior Archaeologist and up to three Archaeologists in attendance. The excavator will be equipped with a flat-bladed bucket. Trenches will be backfilled on completion but not compacted. Hard standing will not be reinstated. Excess spoil will not be removed from the site. An additional 1% trenching is included as a contingency with this work anticipated to take 2 days, if required.

Contingencies will only be used if additional work is requested by KCC's Archaeological Officer (as set out in the WSI) and approved by yourself in advance.

It is assumed that hard (Heras) fencing will not be required, although we are happy to quote for this.

Canterbury Archaeological Trust is a Registered Organisation with the Chartered Institute for Archaeologists (CIfA). All our work conforms to Standards and Guidelines of the Institute and the regulatory requirements of the relevant local and national planning authorities.

We are one of the UK's longest established archaeological contractor with a staff of 50 archaeologists and specialists. Please be assured that we have the experience, capability and resources to deal with any eventuality in a professional and timely manner.

We require a minimum of 10-working days' notice of the start of work in order to assign suitably qualified staff to the project.

If you require further information, please contact:

Mark Houlston

mark.houlston@canterburytrust.co.uk



01227 825252 (direct line)

07968 573404 (mobile)

**Caveats and assumptions:**

- Unless otherwise stated, the costs in this tender letter are valid for 6 months. They are exclusive of VAT.
- should additional resources/time be required due to circumstances beyond the control of CAT (e.g. additional/more significant archaeology, adverse weather, access issues, curatorial requirements) or any sub-contractor employed by CAT additional fees may apply;
- the excavation and recording of burials and archaeological deposits of high significance or complexity are not included;
- costs relating to environmental samples have been excluded due to uncertainties relating to the survival of such remains on the site;
- plant costs provided are estimates, based upon prices current when the quote was compiled on 16/10/23. Due to external factors outside our control, plant and fuel costs may fluctuate. Final plant costs payable by the client will be as applicable at the time the work is undertaken, and may therefore be different from than those quoted;
- if site conditions are excessively muddy, CAT may need to hire a water bowser and jet wash to clean its own vehicles and/or those of sub-contractors. If required, this will incur additional fees;
- the Client will negotiate all access permissions prior to the commencement of work;
- if the CAT staff are required to attend briefings or inductions prior to the commencement of work, additional costs may apply;
- all work undertaken as a Condition of planning will be undertaken in respect to a written scheme of investigation (WSI) approved by the curatorial body;
- CAT standard PPE (safety boots, hi-viz clothing and safety helmet) will apply;
- CAT work a standard 7.5 hour working day. Hours worked beyond this will be charged at time and a half following agreement in writing with the Client;
- all work will be undertaken in accordance with the latest version of the CAT Health and Safety General Policy document. This includes an assumption that CAT staff will not work below a depth of 1.0m or above a height of 1.0m from ground level unless suitable mitigation measures are put in place;
- site security inc. fencing is the responsibility of the Client;
- welfare will comprise a portaloos, which will be removed on completion of the projects;
- individual trenches will not require Heras fencing;
- breakout of hardstanding or other obstructions, if required, may entail a variation in costs.
- backfilling of trenches, if required, will involve re-deposition of the excavated spoil and tracking it in with the machine;
- additional fees may apply if human remains are identified on the site;
- scientific dating (eg radiocarbon) will not be required;
- shoring will not be required;
- de-watering will not be required;
- specialist staff (osteologists, geoarchaeologists, conservators etc) will not be required;



- the Client will provide all necessary details in respect to contamination (known or anticipated), ecology, UXO, or any other known or anticipated constraints or hazards prior to the commencement of work;
- ecological constraints will not impede progress;
- above/below ground services will not impede progress;
- contamination will not impede progress;
- UXO operative coverage, if required, will incur additional fees;
- the Client will provide service/utility plans prior to the commencement of work;
- the Client will ensure suitable access is available for plant and project vehicles, and any costs associated with provision;
- the Client will ensure sufficient and adequate parking is available for site staff, if not parking charges or time lost will be charged in addition to the standard day-rate;
- digital surveys and mapping held by the Client will be provided to CAT with no charge to aid in the production of post-excavation reports.

Please note, the following Client Acceptance Form (online submission or hard copy – please email to [finance@canterburytrust.co.uk](mailto:finance@canterburytrust.co.uk)) must be completed by the individual or organisation that intends to pay for the services detailed in this quotation letter. If this is an organisation, the form must be completed by an employee authorised to do so. Work cannot proceed until the Form is completed and returned to our Finance Department.

Click here

[ONLINE SUBMISSION](#)

### Client Acceptance Form

#### Client billing address and contact details (finance)

Name of Organisation:		
VAT no:	Company Reg no:	PO number:
Add 1:	Add 2:	Add 3:
Town:	County:	Postcode:
Position (i.e. Finance Manager):	First Name:	Second Name:
Phone:	Email:	
Sign	Print Name	Date

#### Other client contact details: 1

Position (i.e. Project Manager):	First Name:	Second Name:
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<b>Phone:</b>	<b>Email:</b>
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**Other client contact details: 2**

<b>Position (i.e. Site Manager):</b>	<b>First Name:</b>	<b>Second Name:</b>
<b>Phone:</b>	<b>Email:</b>	

**Non-client contact details (i.e. planning consultancy or architectural practice):**

<b>Name of Organisation:</b>		
<b>Add 1:</b>	<b>Add 2:</b>	<b>Add 3:</b>
<b>Town:</b>	<b>County:</b>	<b>Postcode:</b>
<b>Position (i.e. Planning Consultant):</b>	<b>First Name:</b>	<b>Second Name:</b>
<b>Phone:</b>	<b>Email:</b>	

**Canterbury Archaeological Trust, Terms & Conditions of Trade**

AGREED TERMS

**1. Interpretation**

1.1. Definitions:

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

**'Business Hours'** means the period from 8.00am to 4.00pm (excluding one half an hour break) on Working Days;

The **'Client'** means the person or organisation awarding the Contract as set out in the Client Acceptance Form;

The **'Contract Price'** means the agreed fee or scale of charges payable by the Client for the Work as set out in the Tender, 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 for the Work, including these Terms and Conditions, the Tender, and other documents which are relevant to the Contract;

The **'Contractor'** means Canterbury Archaeological Trust Ltd (Company number 1441517) whose registered office is 92A Broad St, Canterbury CT1 2LU, its permitted assigns and successors, whose Contract Price for the Work is accepted by and on behalf of the Client;

The **'Fieldwork'** means all or part of the physical archaeological investigation in accordance with the Tender and/or 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;

The **'Intellectual Property Rights'** means patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, 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;

**'Post Excavation'** means all work subsequent to the Fieldwork event(s) that is pertaining to the tasks as set out in the Tender and/or 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 **'Purpose'** means the use for the Work as stated in the Contract;

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

The **'Specification'** means the Written Scheme of Investigation (WSI) or other method statement provided or approved by the relevant local authority planning or archaeological officer or by a comparable regulatory body (i.e. Historic England).

The **'Tender'** means the offer by the Contractor to carry out the Work;

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 this Contract is signed by the Contractor;

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 Tender and any additional services as agreed in writing between the Client and the Contractor, and including any additional work as described in clause 3.3;

**'Working Day'** means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

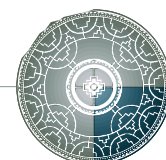
- 1.2. The several documents forming the Contract are to be taken as mutually explanatory of each other and in cases of discrepancy the Tender shall prevail.
- 1.3. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.
- 1.4. 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.
- 1.5. A reference to writing or written includes fax and email.

## **2. Appointment of the Contractor**

- 2.1. The Tender shall only be deemed to be accepted when the Client issues written acceptance at which point and on which date the Contract shall come into existence.
- 2.2. These Terms and 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 law, trade custom, practice or course of dealing.
- 2.3. 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.

## **3. Commencement and duration**

- 3.1. 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 before the Contractor shall be required to commence the Work.
- 3.2. 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.



- 3.3. The Work is to be performed without interruption during the Contractor's Business Hours. The Contractor has made no allowance for any abnormal working outside of Business Hours such as at night or weekends. The Contractor will require payment at an hourly rate detailed in its Tender for all Work completed as a result of delays due to circumstances beyond its control.
- 3.4. 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.

#### 4. Contractor's obligations

- 4.1. The Contractor shall execute and complete the Work in accordance with the Tender in all material respects.
- 4.2. The Contractor shall execute and complete the Work in conformity with the Tender 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.
- 4.3. 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.
- 4.4. The Work shall be completed in accordance with the agreed programme and dates or within such time as may be agreed with the Client, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Work. Any request by the Contractor for extension of time shall be made in writing, to the Client within 7 Working Days of the Contractor being aware of such need arising.
- 4.5. The Contractor reserves the right to amend the Contract if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Work, and the Contractor shall notify the Client in any such event.
- 4.6. The Contractor warrants to the Client that the Work will be carried out using reasonable care and skill.

#### 5. Client's obligations

- 5.1. The Client shall:
  - 5.1.1. ensure that any relevant information provided to the Contractor is complete and accurate;
  - 5.1.2. co-operate with the Contractor in all matters relating to the Work;
  - 5.1.3. provide the Contractor, its employees, agents, consultants and subcontractors, with access to the Client's premises, and other facilities as reasonably required by the Contractor;
  - 5.1.4. provide the Contractor with such information and materials as the Contractor may reasonably require in order to carry out the Work, and ensure that such information is complete and accurate in all material respects;
  - 5.1.5. prepare the Client's premises for the supply of the Work;
  - 5.1.6. obtain and maintain all necessary licences, permissions and consents which may be required for the Work before the date on which the Work is to start;
  - 5.1.7. keep all materials including but not limited to equipment, tools, machinery, toilets and welfare cabins, documents and other property of the Contractor (**Contractor Materials**) at the Client's premises in safe custody at its own risk, maintain the Contractor Materials in good condition until returned to the Contractor, and not dispose of or use the Contractor Materials other than in accordance with the Contractor's written instructions or authorisation; and
  - 5.1.8. comply with any additional obligations as set out in the Tender and/or Specification.
- 5.2. 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.
- 5.3. 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.



- 5.4. If the Contractor'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**):
- 5.4.1. without limiting or affecting any other right or remedy available to it, the Contractor shall have the right to suspend performance of the Work 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 Contractor's performance of any of its obligations;
  - 5.4.2. the Contractor shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Client's failure or delay to perform any of its obligations as set out in this clause 5; and
  - 5.4.3. the Client shall reimburse the Contractor on written demand for any costs or losses sustained or incurred by the Contractor arising directly or indirectly from the Client Default.

## 6. Charges and payment

- 6.1. In consideration of the provision of Work by the Contractor, the Client shall pay the Contract Price as set out in the Tender.
- 6.2. The Contract Price may be calculated on a time and material basis or at a fixed price.
- 6.3. Where the Contract Price is calculated on a time and material basis:
- 6.3.1. the Contract Price shall be calculated in accordance with the Contractor's daily fee rates, as set out in its current price list at the date of the Contract;
  - 6.3.2. the Contractor's daily fee rates for each individual are calculated on the basis of working during Business Hours on Working Days;
  - 6.3.3. the Contractor shall be entitled to charge an overtime rate equivalent to the daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Work outside the Business Hours; and
  - 6.3.4. the Contractor shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom the Contractor engages in connection with the Work including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Contractor for carrying out the Work, and for the cost of any materials.
- 6.4. The Contractor shall invoice the Client as set out in the Tender.
- 6.5. The Client shall pay each invoice submitted by the Contractor:
- 6.5.1. within 21 Working Days of the date of the invoice; and
  - 6.5.2. in full and in cleared funds to a bank account nominated in writing by the Contractor, and time for payment shall be of the essence of the Contract.
- 6.6. 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 Contractor to the Client, the Client shall, on receipt of a valid VAT invoice from the Contractor, pay to the Contractor such additional amounts in respect of VAT as are chargeable on the supply of the services to carry out the Work at the same time as payment for the Contract Price is due.
- 6.7. If the Client fails to make a payment due to the Contractor under the Contract by the due date, then, without limiting the Contractor's remedies under clause 9, 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 6.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 6.8. 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).
- 6.9. Circumstances may occur which will cause the Tender to be altered by the Contractor, and/or Specification to be altered by the relevant planning authority, 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:





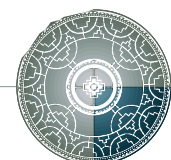
- 6.9.1. The need to deal with unanticipated or exceptionally complex archaeology, special finds or burials.
- 6.9.2. Delays or pauses in fieldwork activities which are beyond the control of The Contractor and which may also result in work being extended beyond any agreed time period.
- 6.9.3. The area under investigation requiring clearing, draining or dewatering, prior to or during fieldwork operations.
- 6.9.4. The presence of above and below ground services unduly affecting the working methodology.
- 6.9.5. Adverse weather conditions causing delays or affecting the working methodology.
- 6.9.6. 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.

## **7. Intellectual property rights**

- 7.1. All Intellectual Property Rights in or arising out of or in connection with the Work (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by the Contractor.
- 7.2. The Intellectual Property Rights 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 for the Contract Price has been received in full. Such licence may not be sub-licensed, assigned or otherwise 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 Intellectual Property Rights.
- 7.3. 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.
- 7.4. The Client grants the Contractor a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Contractor for the term of the Contract for the purpose of carrying out the Work.

## **8. Liability**

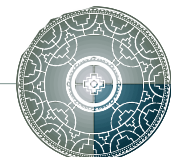
- 8.1. The Contractor has obtained insurance in respect of its own legal liability to cover public liability for not less than £10 million, employers' liability for not less than £10 million and professional indemnity cover for not less than £10 million. The limits and exclusions in this clause reflect the insurance cover the Contractor has been able to arrange and the Client is responsible for making its own arrangements for the insurance of any excess loss.
- 8.2. References to liability in this clause 8 include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 8.3. Nothing in this clause 8 shall limit the Client's payment obligations under the Contract.
- 8.4. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
  - 8.4.1. death or personal injury caused by negligence;
  - 8.4.2. fraud or fraudulent misrepresentation; and
  - 8.4.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.5. Subject to clause 8.3 (No limitation on Client's payment obligations) and clause 8.4 (Liabilities which cannot legally be limited) the Contractor's total liability to the Client for all other loss or damage shall not exceed the Contract Price.
- 8.6. The caps on parties' liabilities shall be reduced by:
  - 8.6.1. payment of an uncapped liability; and



- 8.6.2. amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.
- 8.7. Subject clause 8.3 (No limitation of customer's payment obligations) and clause 8.4 (Liabilities which cannot legally be limited), this clause 8.7 sets out the types of loss that are wholly excluded:
- 8.7.1. loss of profits.
  - 8.7.2. loss of sales or business.
  - 8.7.3. loss of agreements or contracts.
  - 8.7.4. loss of anticipated savings.
  - 8.7.5. loss of use or corruption of software, data or information.
  - 8.7.6. loss of or damage to goodwill; and
  - 8.7.7. indirect or consequential loss.
- 8.8. Unless the Client notifies the Contractor that it intends to make a claim in respect of an event within the notice period, the Contractor shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 8.9. Unless specifically agreed, no allowances have been made for reinstatement. Where allowances for reinstatement have been specifically agreed in writing, rates include for but are not limited to 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 that specifically agreed in the Contract and accepts no liability for any loss or damage as a consequence of reusing arising materials as backfill.
- 8.10. 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.
- 8.11. 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.

## 9. Termination

- 9.1. Without affecting any other right or remedy available to it, either party to the Contract may terminate it with immediate effect by giving written notice to the other party if:
- 9.1.1. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 Working Days after being notified in writing to do so;
  - 9.1.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
  - 9.1.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 9.1.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2. In the event of termination in accordance with clause 9.1.1, 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.
- 9.3. Without affecting any other right or remedy available to it, the Contractor may terminate the Contract with immediate effect by giving written notice to the Client if they fail to pay any amount due under the Contract on the due date for payment.
- 9.4. 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 Working Days the Contractor may, on giving the Client 14 Working 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.

9.5. 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.

9.6. On termination of the Contract for whatever reason:

9.6.1. the Client shall immediately pay to the Contractor all of the Contractor's outstanding unpaid invoices and interest and, in respect of Work supplied but for which no invoice has been submitted, the Contractor may submit an invoice, which shall be payable immediately on receipt;

9.6.2. 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; and

9.6.3. termination or expiry of the Contract shall not affect any of the 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.

## 10. Confidential Information

10.1. Both parties shall at all times keep confidential (and take all reasonable steps to procure that its employees and agents shall keep confidential) and, except as permitted by clause 10.3, shall not at any time for any reason disclose or permit to be disclosed to any person or otherwise make use of or permit to be made use of any information relating to the other party's business methods, plans, systems, finances, projects, trade secrets or provision of products or services to which it attaches confidentiality or in respect of which it holds an obligation to a third party.

10.2. Upon termination or expiry of this Contract for whatever reason both parties shall deliver to the other party all working papers or other material and copies provided to it pursuant to this Contract or prepared by it either in pursuance of this Contract or previously.

10.3. Each party may disclose the other party's confidential information:

10.3.1. to its employees, officers, representatives, contractors, subcontractors 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, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and

10.3.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

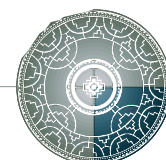
10.4. Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.

## 11. General

11.1. **Force majeure.** 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 10 Working 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.

11.2. **Assignment and other dealings.** The Client shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the Contractor's prior written consent.

11.3. **Entire agreement.** 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. 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.

- 11.4. **Variation.** Subject to clause 4.4, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 11.5. **Waiver.** A waiver 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 a party 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 shall prevent or restrict the further exercise of that or any other right or remedy.
- 11.6. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 11.6 shall not affect the validity and enforceability of the rest of the Contract.
- 11.7. **Notice.** All notices to be given under this Contract by either Party to the other shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case) and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice.
- 11.8. **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 11.9. **Governing law and jurisdiction.** 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 and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.
- 11.10. **Complaints.** 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.

