

1. Definitions

1.1 In this Agreement:

- (a) "Consultant" means Atkins Consultants Limited
- (b) "Client" means the party identified in the Offer Letter as receiving the Services
- (c) "this Agreement" shall consist of:
 - (i) the terms and conditions contained herein and any variations thereof made by the Consultant from time to time as indicated on the CAT-WASTE^{SOIL} website.
 - (ii) the Offer
- (d) CAT-WASTE^{SOIL} refers to the website based Model, and website based supporting documents
- (e) "force majeure" shall include all conditions beyond the reasonable control of the Consultant which prevent or hinder the carrying out of its obligations hereunder
- (f) "Services" shall mean the services to be provided hereunder more particularly described in the Consultant's offer letter dated Date Month 2005 (the Offer) and Clause 7 below
- (g) "in writing" shall include any communication sent by telex or any transmission by facsimile and "written" shall be construed accordingly
- (h) "Effective Date" shall mean the date when the Consultant commenced the provision of the Services

1.2 The headings in this Agreement are for guidance only and shall not affect its construction.

2. Third Party Rights

Nothing in this Agreement confers or purports to confer on any third party any benefit or right to enforce any term of this Agreement.

3. Variations

No variations to the terms of this Agreement shall be made except by agreement in writing between the parties..

4. Appointment

- 4.1 The Consultant agrees, subject to the terms and conditions stipulated in this Agreement, to provide the Services with effect from the Effective Date.
- 4.2 The Consultant shall be subject to the terms hereof and in particular to the provision or supply by the Client (free of charge to the Consultant) of the data, information, assistance, facilities and approvals set out in the Offer to carry out the Services in consideration, whereof the Consultant shall be remunerated in accordance with the terms of the Offer.

5. Intellectual Property

- 5.1 Any information or other content including, without limitation, all text and graphics contained in CAT-WASTE^{SOIL}, and all associated computer code, are protected by copyright, trademark and other intellectual property protection. The Consultant exclusively owns or has been licensed by third parties to use and sublicense all rights title and interest therein and all associated information, data, databases and other material. By using the Service the Client represents and warrants that it will not use the Services in any manner that would violate any copyright, intellectual property or other rights.
- 5.2 The copyright and other like intellectual property rights in all documents (including any maps or computer programs) prepared or compiled by the Consultant hereunder shall remain vested in the Consultant but the Client shall have a free licence to use such documents as are supplied hereunder only for those purposes for which the same were prepared or compiled.

6 Handling of Confidential Information

- 6.1 The (supporting) information provided under the Service is for the sole use of the Client and the Client agrees that at all times they will keep secret and confidential and shall procure and safeguard that their directors and employees keep secret and confidential any information relating to the processes, affairs, methods and data belonging to the Consultant which they have received or obtained in connection with the Services.
- 6.2 These obligations of confidentiality do not apply to information which is publicly available to the Client at the time they acquired the information contained herein, or which was known to the Client before receipt from the Consultant, or having been made known to the user becomes part of the public domain through no fault of the Client, or which is required to be disclosed by law.

- 6.3 The Client acknowledges that damages may not be an adequate remedy for breach of the undertaking in Clause 6.1 and that the Consultant shall be entitled to seek injunctive or other equitable relief for any actual or threatened breach of the above undertaking.

7. Services to be Provided by Consultant

- 7.1 The Consultant shall provide website access to **CAT-WASTE^{SOIL}** and Documentation as provided on the **CAT-WASTE^{SOIL}** website to the Client.
- 7.2 The Consultant will provide a maintenance service for the correction of errors and for the provision of minor enhancements to **CAT-WASTE^{SOIL}** and to the Documentation, including the provision of access to each new release of the licensed version of **CAT-WASTE^{SOIL}**, by means of using reasonable endeavours to maintain the most current version of **CAT-WASTE^{SOIL}** on the Website.
- 7.3 The Consultant will provide, during normal UK working hours and from its UK offices, a Support Service consisting of a telephone, fax, electronic mail and correspondence answering service to deal with problems encountered by the Client in the operation of **CAT-WASTE^{SOIL}**.

8. Warranty and Liability

- 8.1 **CAT-WASTE^{SOIL}** and the Services are provided for indicative purposes only and represent the Consultant's interpretation of published technical guidance. **CAT-WASTE^{SOIL}** and the Services are not intended to be a substitute for formal classification by the intended Waste Operator or Regulating Authority. None of the Services, Documentation, **CAT-WASTE^{SOIL}** and/or website are subject to any warranty or condition, express or implied, including, without limitation, any warranty of satisfactory quality, fitness for a particular purpose or use, and non-infringement. The Consultant does not warrant or guarantee that the provision of any Services, Documentation, **CAT-WASTE^{SOIL}** or website access will be error free or uninterrupted.
- 8.2 The Client acknowledges that electronic communications, databases and websites are subject to errors and tampering and that, notwithstanding the Consultant's use of reasonable security precautions, the Consultant does not guarantee or warrant that such events will not take place. The Client agrees at all times to comply with all access and security procedures provided by the Consultant.
- 8.3 Without prejudice to Clause 8.7 but notwithstanding any other term of this Agreement, the Consultant shall not be liable to the Client for any loss, costs, damages or expense whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, the Services, **CAT-WASTE^{SOIL}** and/or Documentation, its use, support or otherwise.
- 8.4 The Consultant shall have no liability for any failure or delay in the provision of the Services or any part thereof resulting from force majeure.
- 8.5 For the avoidance of doubt, the Consultant shall have no liability to the Client in respect of breaches by the Consultant of its obligations hereunder relating to or in connection with asbestos howsoever arising. The Client acknowledges that all risks relating to asbestos howsoever arising remain with the Client and the Client shall take such steps as it deems necessary to insure against or otherwise address such risks.
- 8.6 The **CAT-WASTE^{SOIL}** is designed to conform to the product description given on the website. The Consultant's sole obligation will be to remedy any non-conformity of **CAT-WASTE^{SOIL}** to its product description.
- 8.7 Nothing in the Agreement shall limit the Consultant's liability for death or personal injury to any person.

9. Termination

- 9.1 The Consultant may terminate the Agreement at any time by providing 90 days written notice to the Client.
- 9.2 Payment to the Consultant in the event of termination as aforesaid shall comprise payments due for such of the services carried out up to and including the date of termination.

10. Notices

- 10.1 Any notice or other communication to be made pursuant to the terms and conditions of this Agreement shall be in writing and shall be sufficiently made if sent by pre-paid first class post, facsimile or by hand delivering to the aforesaid address. Either Party to be served shall except in the case of delivery by hand and save for evidence to the contrary be deemed to have been delivered two days after the communication was posted. If delivered by hand the delivery shall be deemed to have occurred on the same day.

11. Assignment

- 11.1 The Client's rights and obligations under this Agreement are personal to the Client and may not be assigned to another party without the prior written consent of Consultant.

12. Entire Agreement

- 12.1 The terms of the agreement between the Client and the Consultant are contained solely in this Agreement and all previous undertakings and agreements written or otherwise between the parties relating to the subject matter hereof are hereby cancelled provided always that the foregoing shall not exclude any liability for fraudulent misrepresentation by either party.

13. Survival

- 13.1 Provisions of this Agreement which either are expressed to survive expiry or termination of this Agreement or from their nature or context it is contemplated that they are to survive such expiry or termination, shall remain in full force and effect notwithstanding such expiry or termination.

14. Severability

- 14.1 If any term of this Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from this Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms.

15. Law

- 15.1 The construction validity and performance of this Agreement shall be governed by and construed under the laws of England and for all matters arising under out of or in connection with this Agreement the parties shall submit to the exclusive jurisdiction of the courts of England and Wales.