D4. If any payment due under this Contract is not paid in full 14 days after the invoice (or other due date agreed in signed writing under clause D1), interest and administrative charges will be charged in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 from the date due to the date of payment at the rate of Bank of England base rate plus 8%.

D5. Time is of the essence for any payments to the Company under this Contract.

D6. Unless the original works shall be based on a rate of double the normal hourly rate for each operative engaged on the site. The cost of all materials shall be the current local costs. The sum total of the foregoing material costs shall incur an additional charge of 15% to cover overheads and profit.

A. DEFINITIONS AND INTERPRETATION

A1. The terms “Company” and “Owner” shall both mean whichever of:
   a) J K Ashbrook Ltd, company number 05479796
   b) Ashbrook (Warrington) Ltd, company number 10496303

A2. The terms “Contract” and “Customer” means the person or persons who enter into the Contract with the Company.

A3. The “Contract” means these terms and conditions combined with the Company’s written quote or offer letter.

A4. Unless a director of the Company agrees otherwise in writing these terms shall be deemed to be agreed as part of this Contract.

A5. The Company has the right to sub-contract work and supply materials to any third party contractor. The terms and conditions that are provided by the third party contractor shall be deemed part of this Contract.

B. LIABILITY

B1. Subject to clause B3 the Company shall under no circumstances be liable for any direct, indirect, special or consequential losses (including loss of anticipated profit or third party claims) however arising either from breach or non-performance of any of its obligations under the Contract or from the supply of or the intended use of the goods or services even if the Company has been advised of the possibility of such potential loss.

B2. Further and without prejudice to any other terms of this Contract the Company shall be liable for any death or personal injury resulting from the proven negligence of the Company and for any liability arising from fraudulent misrepresentation of the Company.

B3. Where the Company is entitled under any contractual obligations hereunder, it shall not be liable for any delay, failure to perform or breach of contract brought about or attributable to circumstances beyond the reasonable control of the Company including but not limited to war, civil strife, strikes by labour force, industrial disputes, fire, flood, drought, lockouts, embargoes, shortages of materials or any other similar force majeure event.

B4. Without prejudice to any other exclusion of or limitation of liability in this Contract, such liability of the Company for any losses or claims shall be limited to such sum as will be just and equitable for the Company to pay having regard to the extent of its responsibility for the loss or damage suffered as a result of the occurrence or series of occurrences in question (“the loss and damage”) and on the assumption that:

B5.1 all other contractors, sub-contractors and consultants shall have provided contractual undertakings on terms no less onerous than those of this Contract to the Customer in respect of the carrying out of their obligations;

B5.2 there are no exclusions or limitations of liability nor joint insurances or co-insurance provisions between the Customer and any other party referred to in this clause and any such other party is responsible to any extent for the loss and damage is contractually liable to the client for the loss and damage; and

B5.3 all other contractors, sub-contractors and consultants have paid to the Customer such proportion of the loss or damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss and damage.

B6. The Company shall have no liability for any claims relating to tree felling, underground services, pollution & contamination or terrorism.

C. GROUNDWORKS, SITE WORKS AND PAYING

C1. All sites will be assumed to have good access for large articulated vehicles. Before commencement of the Contract the site is to be prepared by others in our opinion ready for excavation and erection machinery to travel on. It is assumed that the Customer has cleared the site and is ready for the Company to begin work. If access to the site has to be provided by the Company it will be charged under clause D6 as extra works.

C2. The site is assumed to have good ground bearing capacity, to be suitable for plant to safely operate and have no ground conditions such as contaminated land, which would require undue work to be uneconomic and beyond the scope of the work being undertaken to remedy such issues which will be deemed to be extra works and charged under clause D6 accordingly.

C3. Concrete must be left for a minimum of 28 days cure before any load can be applied to it unless specified by a third party in writing. All damaged concrete repairs for any damage caused by the Customers default or neglect of this condition shall be charged accordingly.

C4. If the Company causes damage to any cables, water, gas or electricity mains, sewers, drains or any other underground services, terrestrial or underground, all such repairs if in the opinion of the Company were not previously present on site and not due to the Customer in writing prior to the commencement of the Contract then in such event the Company shall have no liability for any claims of loss or damage whatsoever kind caused to the Customer or any third party in respect of the loss and damage and which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss and damage.

C5. Our rates do not include for traffic control/management, which if required would be the subject of additional charge, dependent upon the level of involvement necessary; the Company reserves the right to require the Customer to appoint a separate traffic management system.

C6. Title to all goods and materials shall not pass to the Customer until payment has been received in cleared funds of the full contract price. In the event of non-payment the Company reserves the right to enter the site or any of the Customer’s premises to repossess the goods, materials and/or proceeds of sale to the value outstanding from the Customer.

C7. The risk for any loss or damage to the goods or materials delivered to the site rests with the Customer once delivered to site and it is the Customers responsibility to insure against such risk regardless of whether title in the goods or materials has yet to pass to the Customer under clause C6.

C8. Where the Company is delivering or removing materials or goods from the Customers site or premises the risk for such goods and materials in transit rest with the Customer.

D. PAYMENT

D1. If any variation or where the Company requires a stage payment a detailed account will be forwarded by the Company to the Customer and the Customer shall make payment within 14 days from invoice date unless other payment terms are agreed in signed writing by an authorised representative of the Company. For the avoidance of doubt, any payment made in accordance with this clause D1 regardless of whether any costs or services, goods, works, repairs or hire forms part of a larger contract or whether the Customer is in any way paying for work from a third party. The Customers attention is drawn to the fact that pay-when-paid is offered to our customers.

D2. In the event of any dispute regarding the payment due, the admissibility of any invoice or of any variation to the contract the whole matter shall be referred by the Company to a qualified Surveyor, whose decision shall be final and binding.

D3. The Company reserves the right to require an advance payment of the fee upon the commencement of the Contract. Where no account has previously been opened by the Customer with the Company or satisfactory references are unavailable the Company reserves the right to operate only on a payment in advance basis.