**COMMERCIAL COMMITTEE REPORT FOR PRESENTATION AT THE QUARTERLY MEETING ON 24TH April 2017**

**Date of Reported Meeting:** 23rd March 2017

**Date of Next Meeting:** 10th May

**FPS 4th Quarter Statistics**

It was felt the market was currently quite flat. Ground investigation work is being carried out on HS2; this is likely to affect other projects as it is taking up the GI capacity within the UK. There are also concerns that with the large projects being carried out on the mainland, there will be a shortage of concrete for HS2.

**Project Bank Accounts Position Paper**

A position paper has been produced, however the Commercial Committee is ambivalent about their use. The experience to date is that they can improve payment speed but they tend to lead to being under certified. The group are reviewing the document with a view to adding in considerations when using them, such as the set up time required. It is noted that Build UK are not directly supporting their use with the Fair Payment campaign.

**Caps on Liability Position Paper**

This is now complete, the EFFC are looking to adopt it at European Level however they wish to introduce the subject of ground risk to expand its scope.

Fair Certification Position Paper

The Committee would like to produce a position paper that sets out the issues and remedies. It is recognised that there is a big education issue to be addressed on the subject and it is suspected that the older generation of commercial managers within main contractors is schooling graduates in poor practices. The members are collecting thoughts on why certification is poor, what practices can counteract it and the scale of the problem.

**Build UK/PQQ**

Discussion was held on how to incorporate the FPS audit into the Build UK PQQ system. It is unclear how this will be achieved or what is envisioned currently. There was speculation that the audit schedules could be incorporated into the PQQ system so that all piling contractors are being measured against FPS set criteria. A replacement volunteer is required for Vic Handley who was active on this issue but has now retired.

**JCT Report**

Dave Colven reported on the most recent JCT Council Meeting. Build UK are wanting to have representation on the main contractors group within the JCT as well as having the specialist contractor representation they currently have. Build UK are wanting to collect the most common amendments that are made to JCT contracts so that they can be passed on.

**NEC 4**

The group are to review the NCT 4 contracts at the next meeting. All are reviewing them currently, though it is thought they have been significantly improved in their new iteration. Works information is now called scope and there is a provision to be paid what you can justify.

**Digital Construction (BIM)**

The group have been asked to report back what they are being asked for in contracts involving digital construction ahead of a deeper discussion on what the FPS wants the terms of these contracts to be.

**Diversity**

It has been agreed that the Committee should have a larger room for the next meeting and for all to bring along someone new to the group who would not normally get access to the level of commercial discussion that the Committee should be having. The intention is to widen participation in the group and seek out new perspectives on issues and to transfer knowledge. They will be asked to comment on the future direction of the industry, provide ideas on how they would like the industry to change and also ask questions that they would like answers to.

**Presentation on Contracting within the Industry**

Joanne Mikoda of Cementation Skanska presented her findings from her MSc thesis on contractual issues within piling. This looked at the perception of different people from site to the commercial managers, and the issues they felt they were encountering most commonly. Typically these involved issues such as commencement before a full contract is signed, liabilities and risks that are deemed unfair and disputes arising from loss of time.