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**BIM: Practical Legal
Considerations**

What is BIM?

- Building Information Modelling
- Material
- Cost
- Delivery

Tell It
Like It Is...

What is BIM?

- Updating information
- Impact on price
- Impact on delivery
- Provides ongoing information

Tell It
Like It Is...

Use of BIM?

- £20m restoration of Blackpool Tower
- £100m remodelling and refurbishment of Manchester's City Library
- £4bn construction of Heathrow's Terminal 5.
- 31% of construction professionals are now using BIM

Tell It
Like It Is...

Benefits for Contractors

- Co-ordination of construction documents
- Better understanding of the job
- More detailed package

Tell It
Like It Is...

Benefits for Contractors

- Less risk pricing
- Cost and programme overruns are less likely
- Competitive edge when tendering for work
- Employer gains from BIM

Tell It
Like It Is...

Collaborative Working

- Integrated and collaborative approach
- Move away from bi-partite agreements?
- Is this new?

Tell It
Like It Is...

Collaborative Working

- *“The Employer, the Contractor, the Project Manager and the Supervisor shall act...in a spirit of mutual trust and co-operation.”*

Clause 10.1 NEC3

- “collaboration”

JCT “Construction Excellence” contract

Tell It
Like It Is...

Practicalities

- Not drafted with BIM in mind.
- Not deal with the specific BIM Model practical and design issues
- Limited guidance

Tell It
Like It Is...

Practicalities

“Clause 1.1 In the definition of ‘Contract Documents’ insert after ‘Contract Particulars’, ‘any agreed Building information Modelling protocol.’”

JCT's Public Sector Supplement

‘It is suggested that any agreed BIM protocol should be included in the Employer’s Requirements.’

Guidance footnote

Tell It
Like It Is...

Bespoke Amendments

- Priority - integrity and reliability of the BIM Model
- Manipulation of information
- “BIM Protocol”

Tell It
Like It Is...

BIM Protocol

- Level of dimensional accuracy
- What takes precedence?
- Confidentiality
- “BIM Model Manager”

Tell It
Like It Is...

BIM Model Manager

- Monitoring and policing the BIM protocol
- Formal professional requirements?
- Competent in computer technology, understanding construction sequences and evaluating supply chain data.
- Qualifications

Tell It
Like It Is...

BIM Model Manager

- Responsibility for inaccuracies
- No precedence
- Responsibility for costs

Tell It
Like It Is...

Co-ordination with Sub-Contractors

- Sub-Contractor has BIM software?
- 2D drawings – ambiguity
- Effective communication

Tell It
Like It Is...

Responsibility for Design

- Different design participants
- Professional team share risk?
- Lead designer takes the majority of the risk?

Tell It
Like It Is...

Implications

- Communication
- Up front design
- Timing of appointments

Tell It
Like It Is...

Copyright

- Licences will also have to be reconsidered.
- BIM Model
- Increased fees?
- Limit number of copyright licences?

Tell It
Like It Is...

Example copyright licence

“The Employer shall be entitled to use and reproduce all drawings, details, plans and other documents of any nature whatsoever and any designs contained in them which have been or are hereafter produced by or on behalf of the Consultant in the course of performing its obligations under this Agreement (“Documents”) for any purpose connected with the Development but copyright in the Documents will remain vested in the Consultant. Such licence to the Employer shall be an irrevocable royalty free non-exclusive non-terminable licence. Such licence will carry the right to grant sub-licences and will be transferable to third parties.”

Tell It
Like It Is...

Insurance

- BIM related insurance products
- Form of insurance

Tell It
Like It Is...

Conclusions

- Benefits of BIM
- Bespoke amendments will be needed
- Communication is the key

Tell It
Like It Is...