



Standard Terms and Conditions

1 IMC Terms

1.1 These terms are referred to as the IMC terms and shall apply to the provision of services and goods under contracts into which they are expressly incorporated.

1.2 Once incorporated, these terms shall apply to the exclusion of all other terms and conditions including any terms which a Client may purport to apply under any confirmation of instruction or similar document. The IMC terms shall continue to apply to all services provided by the Consultant to the Client under any contract hereafter until expressly excluded in writing.

2 Assignment and Terms of Reference

2.1 Transport Initiatives LLP ("the Consultant") agrees to carry out the Assignment in accordance with the Terms of Reference.

2.2 The Client agrees to cooperate with the Consultant in the performance of the Consultant's services and to give such support, facilities and information as may be reasonably required.

3 Charges and Payments

3.1 The Client agrees to pay the charges and expenses in accordance with the provisions of the Terms of Engagement.

3.2 The due date for payment shall be 25 days from the date of invoicing. The Consultant reserves the right to offer a further 5 days credit in the event of a Client confirming that it intends to make payment by BACS or any other electronic money transfer.

3.2 All sums due from the Client which are not paid on the due date (without prejudice to the rights of the Consultant under these terms) shall bear interest from day to day at the same annual rate as is prescribed from time to time pursuant to section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 with a minimum rate of 10% per annum.

3.3 The Consultant may from time to time increase the daily rates (if applicable) referred to in the Terms of Engagement by such amount as is reasonable and unless the Client objects to such increased rates within seven days of notification in writing all services shall thereafter be provided at the increased rates notified. If the Client objects to the increased rates, the Client shall remain liable for the existing contractual rate payable in accordance with the terms hereof plus such additional rate as shall be reasonable.

3.4 During any period in which payments from the Client are overdue, the obligations of the Consultant may be suspended.

4 Confidentiality

4.1 The Consultant undertakes not at any time to divulge or allow to be divulged to any person any confidential information relating to the business or affairs of the Client other than to sub-contractors who

have signed an appropriate secrecy undertaking or others where the Client has expressly or impliedly consented to the disclosure.

5 Delegation

5.1 The Consultant undertakes to consult with the Client before delegating any of the Consultant's obligations hereunder.

5.2 The Consultant shall have discretion as to which of its members or employees are assigned to perform its services but shall consult with the Client concerning any significant changes.

6 Intellectual Property

6.1 The Consultant undertakes not to cause or permit anything which may damage or endanger the intellectual property of the Client or the Client's title to it or assist or allow others to do so.

7 Liability and Insurance

7.1 The Consultant shall not be liable to the Client for loss or damage to the Client's property unless due to the negligence or other failure of the Consultant to perform its obligations under this agreement or the general law.

7.2 The Consultant shall have no liability to the Client for any indirect, special or consequential loss to the Client arising out of or in connection with the provision of any goods or services pursuant to this agreement (except in respect of death or personal injury resulting from negligence) and the total liability of the Consultant for any other loss of the Client arising pursuant to this agreement in respect of any one event or series of connected events shall not exceed the indemnity cover (if any) arranged pursuant to the Terms of Engagement or if no such cover has been agreed between the Client and the Consultant the charges payable by the Client in respect of the Consultant's services hereunder.

8 Termination for Breach

The following obligations are conditions of this agreement and any breach of them shall entitle the party not in breach to terminate this agreement by immediate written notice and the rights and liabilities of the parties shall then be determined in accordance with [clause 9](#):

8.1 Failure on the part of the Client to make punctual payment of all sums due to the Consultant under the terms of this agreement.

8.2 Failure on the part of the Consultant to remedy any breach of its obligations hereunder within a reasonable time following written notice from the Client which: refers to this clause; specifies the breach with full particulars; indicates how the breach is to be remedied and specifies the Client's opinion of a reasonable time for remedy.

8.3 The levying of distress or execution against the Client or the making by it of any composition or arrangement with creditors or the presentation of a petition for the Client's liquidation or bankruptcy or administration or the appointment of a receiver over any part of the Client's assets.

8.4 The doing or permitting of any act by which the Consultant's rights in any intellectual property may be prejudiced or put in jeopardy.

8.5 Any serious or persistent breach by the Client of its obligations hereunder.

9 Termination and Consequences

9.1 In the event of this agreement being terminated whether by effluxion of time, notice, breach or otherwise and without prejudice to any other remedy available to the Consultant the Client shall immediately pay to the Consultant:

9.1.1 any sums due under the terms of this agreement and

9.1.2 in the event of termination by reason of sub-clauses [8.1](#), [8.3](#), [8.4](#) or [8.5](#), any further sums which would but for the termination of this agreement have fallen due by the end of the Consultant's engagement less a discount for any accelerated payment at the rate of 5% per annum.

10 Recruitment of the Consultant's Staff

10.1 The Client undertakes that it (including for this purpose any subsidiary or associated company) or any person connected with it will not directly or indirectly recruit as an employee or engage as an independent contractor any person employed or so engaged by the Consultant in connection with the services provided hereunder for a period of six months after such person last provided services to the Client.

10.2 In the event that the Client is in breach of the undertaking in [sub-clause 10.1](#), the Client and the Consultant agree and the Client will pay liquidated damages of a sum equal to 33% of the annual remuneration or payment and any other benefits payable to the relevant individual by the Consultant at the rate payable during the week immediately prior to such individual ceasing to provide services to the Consultant.

11 Consultant's Outputs, Materials and Information

11.1 All intellectual property rights including copyright which are capable of existing in any documents, computer software or information or (without limit) other materials created or provided pursuant to this contract by the Consultant shall be and remain the Consultant's property.

11.2 The Client undertakes to keep all materials, documents and information provided to it by the Consultant confidential to itself and its employees and not to distribute any product of the services provided hereunder to any third party without the Consultant's prior written consent.

11.3 Any materials produced or supplied to the Client by the Consultant in which intellectual property rights are capable of subsisting shall be licensed to the Client for internal use only in connection with the purposes of the terms of reference and such licence shall forthwith terminate if notice is given by the Consultant terminating this contract pursuant to [clause 8](#).

11.4 The Client and the Consultant undertake with each other not during the course of this contract to infringe the intellectual property rights of any third party.

12 Consultant's References to Client

12.1 Subject to [clause 4](#) (Confidentiality) the Consultant shall be entitled to refer to its provision of services to the Client for any purpose in connection with the Consultant's business provided that prior to any published reference to the Client the Consultant shall give the Client an opportunity to object to such reference and in the event of objection upon reasonable grounds shall not refer to the Client as proposed.

13 Force Majeure

13.1 Both parties shall be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond the reasonable control of the parties or either of them renders the performance of this agreement impossible, whereupon all money accrued due

under this agreement shall be paid.

14 Miscellaneous

14.1 Warranty

Each of the parties warrants its power to enter into this agreement and has obtained all necessary approvals to do so.

14.2 Whole agreement

Each party acknowledges that this agreement (as varied) and the conditions contain the whole agreement between the parties and that it is not relied upon any oral or written representations made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.

14.3 Change of address

Each of the parties shall give notice to the other of the change or acquisition of any address or telephone, telex or similar numbers at the earliest possible opportunity but in any event within 24 hours of such change or acquisition.

14.4 Notices

Any notice to be served on either of the parties by the other shall be sent by pre-paid recorded delivery or registered post to the address of the relevant party shown at the head of this agreement or such other address substituted in writing under [clause 14.3](#) (and if more than one address any such address) or by facsimile transmission or by electronic mail or by telex and shall be deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by facsimile transmission or by electronic mail or by telex to the correct facsimile number or electronic mail number of the addressee (with correct answer back).

14.5 Headings

Headings contained in this agreement are for reference purposes only and should not be incorporated into this agreement and shall not be deemed to be any indication of the meaning of the clauses to which they relate.

14.6 Joint and several

All agreements on the part of either of the parties which comprise more than one person or entity shall be joint and several and the neuter singular gender throughout this agreement shall include all genders and the plural and the successor in title to the parties.

14.7 Proper law and jurisdiction

14.7.1 This agreement shall be governed by English law in every particular including formation and interpretation and shall be deemed to have been made in England.

14.7.2 Any proceedings arising out of or in connection with this agreement may be brought in any court of competent jurisdiction in England or Wales.

14.7.3 The submission by the parties to such jurisdiction shall not limit the right of the Consultant to commence any proceedings arising out of this agreement in any other jurisdiction it may consider appropriate.

14.7.4 Any notice of proceedings or other notices in connection with or which would give effect to such proceedings may without prejudice to any other method of service be served upon any party in accordance with [clause 14.4](#).

14.7.5 In the event that the Client is resident outside England, its address for service in England shall be the address for such service nominated in this agreement and any time limits in any proceedings shall not be extended by virtue only of the foreign residence of the Client.

14.8 Waiver

Failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this agreement shall not be a waiver of them or the right at any time subsequently to enforce all terms and conditions of this agreement.

14.9 Status of Consultant

14.9.1 The Consultant shall be an independent contractor and not the employee of the Client.

14.9.2 In such capacity, the Consultant shall bear exclusive responsibility for the payment of his or her National Insurance contributions as a self-employed person and for the discharge of any income tax and VAT liability arising out of remuneration for the work performed by him or her under this agreement.

14.9.3 The Consultant shall not be subject to directions from the Client as to the manner in which he or she shall perform his or her work.

14.10 Assignment or sub-contracting

The Consultant shall be entitled to sub-contract any of its rights or duties under this agreement.

14.11 Set-off

The Client shall not be entitled to withhold payment of any sum otherwise payable to the Consultant by reason of any claim, set-off or for damages in relation hereto.

15 Mediation

15.1 In the event of any dispute arising between the parties in connection with this agreement, the parties will in good faith seek to resolve that dispute through mediation. The mediator shall be agreed upon within seven days of one party requesting mediation, failing which the mediator shall be appointed by an appropriate officer of the Institution of Highways and Transportation. Unless otherwise agreed, the parties shall share equally the costs of the mediation. If the dispute is not resolved within 30 days or one of the parties refuses to participate in mediation, the dispute shall be resolved by way of litigation. Nothing in this clause shall prevent either party seeking a preliminary injunction or other judicial relief at any time if in its judgment such action is necessary nor shall the Consultant be precluded from issuing proceedings or taking any other step in relation to the non-payment of monies due.

16 Definitions

"The Assignment" means the Assignment referred to in the Terms of Engagement

"The Consultant" means Transport Initiatives LLP or any of its members acting on behalf of Transport Initiatives LLP with the prior authorisation of the Designated Members as set out in the Partnership Agreement of Transport Initiatives LLP

"The Terms of Reference" means the Terms of Reference referred to in the Terms of Engagement

"The Terms of Engagement" means the written terms of agreement between the client and the Consultant which incorporate these terms

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