

## **CIPFA TERMS OF BUSINESS**

These Terms of Business describe the terms on which CIPFA Business Limited, a company incorporated in England and Wales with company number 2376684 ("CIPFA") will provide consultancy services to any client by which it is engaged (the "Client"). For the purposes of this Agreement, CIPFA and the Client are each a "Party" and together the "Parties".

This Agreement should be read in conjunction with the proposal (the "Proposal") submitted to the Client by CIPFA in connection with its engagement to deliver consultancy services.

### **1 THE SERVICES**

- 1.1 The services to be delivered by CIPFA to the Client are as set out in the Proposal (the "Services").
- 1.2 The Client shall co-operate with and make all reasonable efforts to provide such information that CIPFA reasonably requires to deliver the Services. CIPFA will promptly notify the Client in writing if it considers that the Client has failed to provide any information requested or has reason to suspect that the information provided is inaccurate or incomplete and the Client shall use reasonable endeavours to provide or correct any such missing or inaccurate information.
- 1.3 The Client shall be responsible for the accuracy of all data provided to CIPFA.

### **2 FEES AND EXPENSES**

- 2.1 CIPFA's fees for the Services (the "Fees") will be calculated on the basis of days worked at the daily rate agreed in the Proposal or on such other basis as is set out in the Proposal.
- 2.2 The Client will pay all valid invoices within thirty (30) days of receipt of the invoice. Where the Client has provided a purchase order number for billing purposes, CIPFA will include that purchase order number on its invoices in relation to the Services.
- 2.3 All Fees are exclusive of Value Added Tax unless otherwise stated. Any Value Added Tax required will be charged to the Client in addition to the Fees.
- 2.4 CIPFA may charge reasonable expenses as necessary for the delivery of the Services. The Client will reimburse CIPFA from time to time for such expenses incurred in connection with providing the Services.
- 2.5 If this Agreement is terminated by the Client prior to completion of the Services but where the Services have been partially performed, CIPFA will be entitled to pro rata payment of any Fees and expenses due in respect of work done up to the date of termination. This clause 2.5 shall not apply where CIPFA is in breach of its obligations under this Agreement.

### **3 ASSOCIATES AND SUB-CONTRACTORS**

- 3.1 As well as its own employees, CIPFA uses freelance professionals ("Associates") to work on its projects. CIPFA may engage Associates to work on any part of the Services. CIPFA will be responsible for the fulfilment of its obligations hereunder, notwithstanding the performance of such obligations by its Associates. CIPFA retains the right to change the personnel (including Associates) assigned to work on the Services as and when it sees fit.
- 3.2 Except as otherwise provided in this Agreement, CIPFA may, at CIPFA's absolute discretion, engage a third-party sub-contractor to perform some or all of its obligations under this Agreement.
- 3.3 If CIPFA hires a sub-contractor:
- 3.3.1 CIPFA will be responsible for paying the sub-contractor; and
- 3.3.2 for the purposes of clause 4 (Liability and Indemnity) of this Agreement, the sub-contractor is an agent of CIPFA.

For the avoidance of doubt, the engagement of sub-contractors by CIPFA has no impact on the Client's obligation to pay the Fees.

- 3.4 The Client will not hire or engage any third party to assist with the provision of the Services.

### **4 LIABILITY AND INDEMNITY**

- 4.1 Subject to clause 4.2, neither Party's liability under this Agreement shall exceed the total of the Fees or £100,000, whichever is higher.
- 4.2 Each Party accepts liability without limit for (i) death or personal injury caused by the negligence of its personnel acting in the course of their employment; (ii) any fraudulent precontractual misrepresentations made by it on which the other Party can be shown to have relied; and (iii) any other liability which by law cannot be excluded.
- 4.3 Neither Party shall be liable for any loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill, or any indirect or consequential loss.
- 4.4 Each Party indemnifies and holds harmless the other Party against any and all losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and reasonable costs of any kind which results from or arise out of any third-party claim relating to any act or omission of the indemnifying Party. CIPFA indemnifies and holds harmless the Client against any and all losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and reasonable costs of any kind, which result from or arise out of any act or omission

of any sub-contractor engaged pursuant to clause 3 (Associates and Sub-contractors) that occurs in connection with this Agreement.

## **5 INSURANCE**

5.1 CIPFA will, at its own expense, provide and maintain in respect of the provision of the Services:

5.1.1 a policy of professional indemnity insurance sufficient to cover CIPFA's potential liability to the Client with a maximum cover of £10,000,000; and

5.1.2 a policy of public liability insurance with cover of £10,000,000.

## **6 CONFIDENTIALITY**

6.1 Each Party undertakes that it shall not at any time, and for a period of six years after termination or expiry of this Agreement disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party ("Confidential Information"), except as otherwise permitted by this clause 6.

6.2 Each Party may disclose the other Party's Confidential Information to its employees, agents, officers, representatives, contractors, sub-contractors or advisers who need to know such information for the purposes of carrying out the Party's obligations under this Agreement. Each Party shall ensure that its employees, agents, officers, representatives, contractors, sub-contractors or advisers to whom it discloses the other Party's Confidential Information comply with this clause 6; and

6.3 The obligations set out above shall not apply to any Confidential Information which:

6.3.1 is or becomes publicly available other than through a breach of this Agreement;

6.3.2 is already in the receiving Party's possession without any obligation of confidentiality;

6.3.3 is obtained by the receiving Party from a third party without any obligation of confidentiality;

6.3.4 is independently developed by the receiving Party outside the scope of this Agreement; or

6.3.5 is required to be disclosed pursuant to law or any professional or regulatory obligation.

6.4 Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

- 6.5 All written and oral information and material disclosed or provided by the Client to CIPFA under this Agreement will be treated as confidential whether it was provided before or after the date of this Agreement or how it was provided to CIPFA.
- 6.6 Upon the expiry or termination of this Agreement, CIPFA will return to the Client any property, documentation or records which belong to the Client.

## **7 DATA PROTECTION**

- 7.1 For the purposes of this clause 7, "Data Protection Law" means any applicable law, as amended from time to time, relating to the processing, privacy, and use of Personal Data, including without limitation, (a) the UK Data Protection Act 2018 (DPA 2018), the UK General Data Protection Regulation (UK GDPR) and the Privacy and Electronic Communications Regulations (PECR) (the "UK Data Protection Legislation") and (b) any corresponding or equivalent national laws or regulations issued by any relevant regulator, authority, or body responsible for administering data protection. "Personal Data" is as defined in Data Protection Law.
- 7.2 When processing Personal Data, both Parties will comply with all requirements and obligations under Data Protection Law. If there is any conflict, apparent conflict or ambiguity in Data Protection Law, the compliance obligation will be interpreted in accordance with the UK Data Protection Legislation.
- 7.3 CIPFA acknowledges that for the purposes of Data Protection Law it is the Data Controller (where "Data Controller" has the meaning as defined in Data Protection Law) for the purpose of managing and providing a service to the Client, and it is the Data Processor (where "Data Processor" has the meaning as defined in Data Protection Law) when it processes data on the Client's behalf.
- 7.4 The Client will ensure that it has all the necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to CIPFA for the duration and purposes of the Services.
- 7.5 CIPFA will ensure that it has, considering the state of the art and costs of implementation, implemented technical and organisational measures appropriate to the risks of the rights and freedoms of natural persons, to protect against unauthorised or unlawful processing of, and against accidental loss or destruction of, or damage to, Personal Data and will notify the Client of any relevant incidents.
- 7.6 CIPFA will ensure that all our staff and representatives who process Personal Data are obliged to keep the Personal Data confidential and are limited only to those who need access to the Personal Data to meet CIPFA's obligations under this Agreement.
- 7.7 CIPFA will only process the Personal Data reasonably required to provide the Services.
- 7.8 The Client's attention is drawn to CIPFA's [Privacy Notice](#) and [GDPR Compliance Statement](#).

## **8 INTELLECTUAL PROPERTY**

- 8.1 All intellectual property and related material, including any trade secrets, moral rights, goodwill, relevant registrations or applications for registration, and rights in any patent, copyright, trademark, trade dress, industrial design, methodology, model and trade name (the "Intellectual Property") that is developed or produced under this Agreement, will be the sole property of CIPFA. The use of the Intellectual Property by CIPFA will not be restricted in any manner.
- 8.2 The Client may not use the Intellectual Property or any report or other output produced by CIPFA in connection with the Services (a "Deliverable") for any purpose other than that contracted for in this Agreement except with the written consent of CIPFA. The Client will be responsible for any and all damages resulting from the unauthorised use of the Intellectual Property.
- 8.3 CIPFA grants to the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use any Deliverable for the purpose of receiving and using the Services and any Deliverable in its business.
- 8.4 The Client shall not sub-license, assign or otherwise transfer the rights granted under clause 8.3.

## **9 CAPACITY/INDEPENDENT CONTRACTOR**

In providing the Services under this Agreement it is expressly agreed that CIPFA is acting as an independent contractor and not as an employee. The Client and CIPFA acknowledge that this Agreement does not create a partnership or joint venture between them and is exclusively a contract for services.

## **10 AUTONOMY**

Except as otherwise provided in this Agreement, CIPFA will have full control over working time, methods, and decision-making in relation to the provision of the Services. CIPFA will work autonomously and not at the direction of the Client. However, CIPFA will be responsive to the reasonable needs and concerns of the Client in delivering the Services.

## **11 EQUIPMENT**

Except as otherwise provided in this Agreement, CIPFA will provide, at its own expense, any and all tools, machinery, equipment, raw materials, supplies, workwear and any other items or parts necessary to deliver the Services in accordance with the Agreement.

## **12 EXCLUSIVITY**

- 12.1 The Parties acknowledge that this Agreement is exclusive and that either Party will not be free, during the Term, to engage or contract with third parties for the provision of services similar to the Services. Non-exclusivity will apply on termination or expiry of this Agreement.
- 12.2 During the Term and for one (1) year thereafter, the Client shall not encourage or solicit any employee, contractor, vendor, or client of CIPFA (including, for the avoidance of doubt, any Associate) to leave or terminate its relationship with CIPFA for any reason. If the Client fails to adhere to this clause 12, it will be liable to CIPFA for 30% of any payment or salary made to any such employee, contractor, vendor or client.

## **13 CONFLICT OF TERMS**

Save as otherwise set out in this Agreement, where there is a conflict between the terms of this Agreement and any standard terms of the Client applicable to the Services, the terms of this Agreement shall prevail.

## **14 NOTICE**

All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

For CIPFA – 77 Mansell Street, London E1 8AN; and

For the Client – its normal business address as published on its website or any other address advised to CIPFA by the Client.

## **15 MODIFICATION OF AGREEMENT**

Any amendment or modification to this Agreement and/or any additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed on behalf of each Party.

## **16 TERM**

- 16.1 The term of this Agreement (the "Term") will begin on the date of this Agreement, and it shall remain in full force and effect until the Services are complete in accordance with the Proposal.
- 16.2 The Term may be extended with the written agreement of the Parties.
- 16.3 Timeframes for completion of the Services or any part thereof shall be as set out in the Proposal. The Parties shall use their reasonable endeavours to comply with any time limits for performance of their respective obligations which are agreed

between the Parties. If no specific time limits are agreed for performance of an obligation, then it must be performed within a reasonable time.

**17 TIME OF THE ESSENCE**

Time is of the essence in this Agreement. Any extension or variation of this Agreement will operate as a waiver of this provision and this Agreement shall be deemed to be amended accordingly.

**18 ASSIGNMENT**

CIPFA will not assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

**19 THIRD PARTY RIGHTS**

This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

**20 ENTIRE AGREEMENT**

This Agreement, together with the Proposal, set out the entire agreement between CIPFA and the Client and supersede any and all prior terms, conditions, warranties and/or representations to the fullest extent permitted by law.

**21 CHANGES TO THESE TERMS OF BUSINESS**

CIPFA reserves the right to change and update the Terms of Business set out in this Agreement from time to time. For the avoidance of doubt, the terms that apply to the Services shall be as set out in this Agreement as at the date the Proposal is issued to the Client. By instructing CIPFA to provide the Services, the Client is deemed to agree to the terms set out herein.

**22 GOVERNING LAW AND JURISDICTION**

22.1 This Agreement will be governed by and construed in accordance with the laws of England and Wales.

22.2 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.