

Terms and Conditions

1. BACKGROUND

- 1.1 For the purpose of this Appointment the following words and expressions shall have the meaning defined below:

Appointment - means these terms and conditions together with the Fee Proposal and all other documents referred to in the Fee Proposal.

Client - means the legal entity requiring the Services to be performed by WSP as identified in the Fee Proposal, its successors and assigns together with any third parties identified in the Fee Proposal as being entitled to enforce any terms of this Appointment.

Fee – means the sum specified in the Fee Proposal payable to WSP for the performance of the Services, as that sum may be adjusted from time to time in accordance with this Appointment.

Fee Proposal - means the written submission by WSP to the Client detailing the Services, Time Frame and Fee.

Services - means the work and activities to be performed by WSP as detailed in the Fee Proposal unless varied in accordance with clause 2.8.

Time Frame - means the period or date by when the Services are to be completed or any given part of the Services are to be completed. The Time Frame is subject to adjustment in accordance with clause 2.8.

WSP - means WSP UK Limited.

2. WSP OBLIGATIONS

- 2.1 In performing the Services WSP shall exercise the reasonable skill, care and diligence to be expected of a properly qualified professional experienced in providing Services of a similar size, scope and complexity, and shall be responsible for the performance of any part of the Services to be carried out by any third parties engaged by WSP.
- 2.2 The Fee Proposal shall detail those who are to perform the Services, including both the senior WSP personnel managing the performance of the Services and any third parties to be engaged by WSP to perform any aspect of the Services. WSP shall secure the Client's agreement before appointing any other third party to perform any of the Services.
- 2.3 In undertaking the Services, WSP shall maintain an internal management control system certified to the standards of ISO 9001 or any successor standard with the aim of ensuring quality of service.
- 2.4 WSP shall perform the Services in accordance with the Time Frame subject to the terms of this Appointment.
- 2.5 WSP shall maintain professional indemnity insurance cover of at least £1,000,000 providing that such insurance is available in the United Kingdom on reasonable terms and rates.
- 2.6 WSP grants to the Client a non-exclusive, royalty free licence with the right to grant sub-licences to use for any purpose without limit, including the right to copy, all of the reports, information, drawings, specifications or other material howsoever issued by WSP to the Client as part of the Services. WSP reserves the right to revoke this licence for any period or periods during which any monies payable to WSP under this Appointment are outstanding.
- 2.7 WSP shall upon request by the Client deliver to the Client the number and type of collateral warranties as identified in the Fee Proposal (if any).
- 2.8 WSP shall perform any changes to the Services defined in the Fee Proposal as reasonably requested by the Client. In the event of a request being made the parties shall exercise their best endeavours to agree a revision to the Services, and a new Time Frame and Fee in respect of the changed Services. WSP shall not proceed with any changes until either agreement is reached between the Parties as to the impact of the change or the Client instructs WSP to proceed; provided that such an instruction can only be issued on the basis that the Client will pay a reasonable sum for the changed Services and that WSP have a reasonable period of time to complete the changed Services. In the event that a change is by way of an omission or reduction in the Services then WSP shall not proceed with such aspects of the Services. In all circumstances, the services as changed shall be deemed to be Services and governed by the terms of this Appointment.
- 2.9 Should WSP fail to perform the Services in accordance with this Appointment then it shall re-perform the relevant part of the Services free of charge to the Client as expeditiously as possible and shall pay to the Client such resulting damages, losses, expenses or costs incurred by the Client to the extent that such would be recoverable for breach of contract up to a maximum sum of £1,000,000; save that it shall not be liable for indirect or consequential loss or loss of profit, and such limit as set out in this clause 2.9 shall not apply to personal injury or death resulting from the negligence of WSP or claims relating to an infringement of a third party's intellectual property rights.
- 2.10 In calculating the amount payable pursuant to clause 2.9 the Client shall only be entitled to recover that amount which it would be just and equitable to recover from WSP based on all parties contributing in the same percentage as their respective responsibility in causing the event or events which led to the Client suffering the damage, loss, expense or cost incurred.
- 2.11 WSP shall not be liable for the use to which the Services or any information, drawings, reports, designs, specifications or deliverables issued to the Client as part of the Services is put by the Client save for the express purpose or intent expressed in the Fee Proposal. WSP shall also not be liable for any copyright infringement by the Client of the Crown's copyright in protected Ordnance Survey base data.

- 2.12 WSP warrants that none of its personnel or any associated person connected to WSP shall act in contravention of the Bribery Act 2010, the Enterprise and Regulatory Reform Act 2013, or any other anti-corruption and/or anti-competitive legislation or legal requirement, and WSP maintains internal procedures to ensure compliance.

3. CLIENT OBLIGATIONS

- 3.1 The Client shall pay the Fee, plus any expenses and other disbursements and all taxes properly chargeable at the date of WSP issuing its invoice, in accordance with any stage payments specified in the Fee Proposal, or in the event that the Fee Proposal does not provide for stage payments then WSP shall issue an invoice to the Client at the end of the month in which the Services or any part thereof have been performed.
- 3.2 The due date for payment is the date of the invoice and the final date for payment is 28 days after the due date. If payment is not received in full by the final date for payment then WSP shall be entitled to charge interest on the outstanding amount at a rate 5% per annum above the official dealing rate of the Bank of England current at the final date for payment together with any sums which it is entitled to levy pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 until payment is received by WSP.
- 3.3 The Client shall provide WSP with all information, support and assistance either stated within the Fee Proposal or otherwise reasonably anticipated by WSP to perform the Services at no charge to WSP at such time as required to enable WSP to carry out the Services in accordance with the Time Frame.

4. SUSPENSION BY THE CLIENT

- 4.1 The Client shall be entitled to suspend the performance of the Services upon providing WSP with seven days written notice.
- 4.2 In the event of suspension, WSP shall be entitled to invoice the Client for the Services rendered up to the date of suspension, including any expenses and disbursements payable under this Appointment together with any taxes properly chargeable in respect of the same which shall be payable as if it were an invoice issued under clause 3.
- 4.3 WSP shall only be obliged to recommence the performance of the Services upon the Client satisfying its obligations under this Appointment, including paying any invoice issued under clause 4.2, and the Parties agreeing any changes to the Fee and Time frame resulting from the suspension.

5. TERMINATION

- 5.1 The Client may terminate this Appointment for any reason upon 28 days written notice or seven days written notice in the event that WSP is in breach of this Appointment provided that WSP has been advised of the breach by the Client and has failed to commence such actions as necessary to remedy the breach.
- 5.2 WSP may terminate this Appointment if any period of suspension under clause 4 shall last for more than three months upon seven days written notice to the Client.
- 5.3 Termination by either party does not affect the Parties' respective rights and entitlements pursuant to this Appointment.

6. DISPUTE RESOLUTION

- 6.1 If a dispute or difference arises under this Appointment which the Parties are unable to resolve by way of direct negotiations acting in good faith then the Parties shall refer such dispute or difference to mediation using the Centre for Effective Dispute Resolution.
- 6.2 If a dispute or difference arises under this Appointment which either party wishes to refer to adjudication then Part 1 of the Scheme for Construction Contracts Regulations in force at the date of the referral shall apply and the nominating body shall be the Association for Consultancy and Engineering.

7. GENERAL

- 7.1 Save as may be necessary for the performance of the Services, or as required by law, the parties agree to treat as confidential all information relating to this Appointment and to take all reasonable steps to ensure that any third party to whom it is necessary to disclose information in performance of the Services provides an equivalent undertaking.
- 7.2 This Appointment constitutes the entire agreement between the Parties with respect to the performance of the Services. No prior discussions, negotiations, statements, representations whether written or oral, except as recorded in this Appointment shall be binding upon the Parties.
- 7.3 Nothing in this Appointment shall confer any rights to enforce any of its terms on any person who is not a party to it.

8. GOVERNING LAW

- 8.1 English Law shall apply to the interpretation of this Appointment and govern the performance of the Services, and subject to clause 6 the Parties agree to submit to the exclusive jurisdiction of the English Courts.