



VIP Transport Management Consultancy Terms and Conditions

AGREEMENT:

1. Definitions and interpretation

In the Agreement:

"Agreement" means agreement between the parties incorporating these consultancy terms and conditions and the Proposal, and any amendments to it from time to time;

"Charges" means the charges specified in the Proposal;

"Confidential Information" means:

- (a) any information supplied (whether supplied in writing, orally or otherwise) by the Customer to the Consultant [during the term of the Agreement] that is marked as "confidential", is described as "confidential" or should have been reasonably understood by the Consultant to be confidential; and
- (b) Any information given by the customer to the consultant will be confidential but the consultant will not be liable in any way for this information;

"Consultant" means Vip Transport Management Consultancy;

"Customer" means the customer for the Services under the Agreement identified in the Proposal;

"Deliverables" means the deliverables specified in the Proposal;

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Project" means the project detailed in the Proposal that is the subject of the Agreement;

"Proposal" means the proposal document setting out the particulars of the Agreement that is issued by the Consultant and agreed by or on behalf of each party;

"Services" means the services provided or to be provided by the Consultant to



the Customer under the Agreement.

2. Term of Agreement

The Agreement will come into force upon the execution of the Proposal, and the Agreement will continue in force indefinitely, unless terminated in accordance with the provisions of Clause [8].

3. Duties of the Consultant

3.1 The Consultant will perform the Services [with reasonable care and skill / to a good professional standard].

[3.2 The Consultant will devote such of its personnel's time, attention and abilities to the Project as may be necessary for its satisfactory and timely completion.

[3.3 The Consultant will deliver the Deliverables to the Customer in accordance with the timetable set out in the Proposal. Time shall [not] be of the essence in relation to the timetable for delivery of the Deliverables.

4. Charges

4.1 The Customer will pay the Charges to the Consultant in accordance with the provisions of this Clause [4].

4.2 The Consultant may issue invoices for the Charges to the Customer [from time to time during the term of the Agreement / on or after the dates set out in the Proposal / at any time after the relevant [Services / Deliverables] have been delivered to the Customer].

4.3 The Customer will pay the Charges to the Consultant within [14] days of the date of [issue / receipt by the Customer] of an invoice issued in accordance with Clause [4.2].

4.4 All amounts stated in the Proposal or in relation to the Agreement are stated [inclusive / exclusive] of all value-added taxes[, which will be added to those amounts and payable by the Customer to the Consultant].

5. Intellectual Property Rights

[The Consultant hereby assigns to the Customer [with full title guarantee] all of [its / the] existing and future Intellectual Property Rights in the Deliverables. This assignment is for the full term of the assigned rights, including all extensions, renewals, reversions and revivals; and this assignment includes the right to bring proceedings for past infringement of the assigned rights.]

OR

[The Consultant hereby grants to the Customer a [non-exclusive, irrevocable, worldwide] licence under the Intellectual Property Rights in the Deliverables to [copy, reproduce, distribute, publish, export, adapt, edit and translate] the



Deliverables for personal use only.

6. Warranties

6.1 The Consultant warrants [and represents] to the Customer that:

- (a) the Consultant has full power to enter into the Agreement and to perform its obligations under the Agreement;
- (b) the Deliverables will: (i) meet the requirements set out in the Proposal; (ii) be of a [good professional / reasonable] standard; and [(iii) operate without [material] defect or error;] and
- (c) the Deliverables will not: (i) breach the provisions of any law, statute or regulation; (ii) infringe the Intellectual Property Rights or other legal rights of any person; or (iii) give rise [or be capable of giving rise to] any cause of action against the Customer [or any other person], in each case [in any jurisdiction and under any applicable law].

6.2 The Customer warrants [and represents] to the Consultant that the Customer has full power to enter into the Agreement and to perform its obligations under the Agreement.

7. Limitations and exclusions of liability

7.1 Nothing in the Agreement will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit or exclude any liability of a party under Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Service Act 1982;
- (d) limit any liability of a party in any way that is not permitted under applicable law; or
- (e) exclude any liability of a party that may not be excluded under applicable law.

7.2 The limitations and exclusions of liability set out in this Clause [7] [and elsewhere in the Agreement]:

- (a) are subject to Clause [7.1];
- (b) govern all liabilities, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty; and
- (c) govern all liabilities arising under the Agreement [or any collateral



contract] or in relation to the subject matter of the Agreement [or any collateral contract].

- 7.3 The Consultant will not be liable in respect of any loss of profits, income, revenue, use, production or anticipated savings.
- 7.4 The Consultant will not be liable for any loss of business, contracts or commercial opportunities.
- 7.5 The Consultant will not be liable in respect of any loss or corruption of any data, database or software.
- 7.6 The Consultant will not be liable in respect of any special, indirect or consequential loss or damage.

8. Termination

- 8.1 Either party may terminate the Agreement at any time by giving at least 90 days written notice to the other party [expiring at any time after the end of the *minimum term*].
- 8.2 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party commits any [material] breach of any term of the Agreement.
- 8.3 Either party may terminate the Agreement immediately by giving written notice to the other party if:
 - (a) the other party: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or
 - (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.
- 8.4 The Consultant may terminate the Agreement at any time if non-compliance or non-action is taken on advice given to the customer or if that the consultant's good repute is in jeopardy



9. Effects of termination

- 9.1 Upon termination all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses [1, 5, 7, 9, 10 and 11].
- 9.2 Termination of the Agreement will not affect either party's accrued liabilities or rights (including accrued rights to be paid) as at the date of termination.

10. Confidentiality

- 10.1 The Consultant will not disclose the Confidential Information and will protect the Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 10.2 Confidential Information may be disclosed by the Consultant to the Consultant's [employees, officers, insurers and professional advisers], provided that the recipient is legally bound [in writing] to maintain the confidentiality of the Confidential Information received.
- 10.3 The obligations set out in this Clause [10] shall not apply to Confidential Information that [the Consultant can demonstrate]:
- (a) is or has become publicly known other than through a breach of an obligation of confidence;
 - (b) was in possession of the Consultant prior to disclosure by the Customer;
 - (c) was received by the Consultant from an independent third party who has full right of disclosure; or
 - (d) was required to be disclosed by a governmental authority, stock exchange or regulatory body[, provided that the Consultant gives to the Customer prompt written notice of the requirement].

11. General

- 11.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 11.2 If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect.
- 11.3 Nothing in the Agreement will constitute a partnership or employment or agency relationship between the parties.
- 11.4 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.



- 11.5 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any rights or obligations under the Agreement.
- 11.6 The Consultant may subcontract any of its obligations under the Agreement to any third party.
- 11.7 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.
- 11.8 Subject to Clause [7.1]:
- (a) the Agreement will constitute the entire agreement between the parties in relation to the subject matter of the Agreement, and supersedes all previous agreements, arrangements and understandings between the parties in respect of that subject matter;
 - (b) neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Agreement; and
 - (c) neither party will have any liability other than pursuant to the express terms of the Agreement.
- 11.9 The Agreement will be governed by and construed in accordance with [English law]; and the courts of [England] will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

Both parties accept these terms by acceptance of schedule of works.