

## CONDITIONS OF CONTRACT FOR CONSULTANCY SERVICES (English Law Version)

**These Conditions may only be varied with the written agreement of the University.**

**No terms or conditions put forward at any time by the Consultant shall form any part of the Contract.**

### **1. DEFINITIONS**

In these Conditions:

'University' means the University of Westminster;

'Consultant' means the person, firm or company to whom the Contract is issued;

'Project' means the services to be provided as specified in the Purchase Order;

'Premises' means the location where the Project is to be performed, as specified in the Purchase Order;

'Contract' or 'Agreement' means the formal contract between the University and the Consultant consisting of the Purchase Order, these Conditions, and any other documents (or parts thereof) specified in the Purchase Order;

'Purchase Order' means the document setting out the University's requirements for the Contract or Agreement.

### **2. THE PROJECT**

2.1 The Consultant shall complete the Project with reasonable skill, care and diligence in accordance with the Contract.

2.2 The Consultant shall provide the University with such reports of his work on the Project at such intervals and in such form as the University may from time to time require.

2.3 The University reserves the right by notice to the Consultant to modify its requirements in relation to the Project and any alteration to the Contract fee or the completion date arising by reason of such modification shall be agreed between the parties. Failing agreement the matter shall be determined by arbitration in accordance with the provisions of Condition 16.

### **3. CONSULTANT'S PERSONNEL**

3.1 The Consultant shall make available for the purposes of the Project any individuals named on the Purchase Order as key personnel. The Consultant shall provide the University with a list of names and addresses of all other regarded by the Consultant as key personnel and, if and when instructed by the University, all other persons who may be at any time concerned with the Project or any part of it, specifying in each case the capacities in which they are so concerned and providing such other particulars and evidence of identity and other supporting evidence as the University may necessarily require. The University may at any time by notice to the Consultant designate any person concerned with the Project or any part of it as a key person. The Consultant shall not without the prior written approval of the University make any changes in the key personnel referred to in this paragraph.

3.2 The Consultant shall take the steps reasonably required by the University to prevent unauthorised persons being admitted to the Premises. If the University gives the Consultant notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the Project, the Consultant shall take all reasonable steps to comply with such notice.

3.3 The decision of the University as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed

from involvement in the performance of the Contract and as to whether the Consultant has furnished the information or taken the steps required of it by the Condition shall be final and conclusive.

- 3.4 The Consultant shall bear the cost of any notice, instruction or decision of the University under this condition.

#### **4. FEES AND EXPENSES**

- 4.1 The University shall pay to the Consultant fees at the rate specified in the Purchase Order.

- 4.2 The Consultant shall be entitled to be reimbursed by the University the amount of all expenses reasonably and properly incurred by him in the performance of his duties hereunder, subject to production of such evidence thereof as the University may reasonably require.

- 4.3 Unless otherwise stated in the Contract, payment will be made within 30 days of receipt and agreement of invoices, submitted monthly in arrears, for work completed to the satisfaction of the University.

- 4.4 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

#### **5. AUDIT**

The Consultant shall keep and maintain until two years after the Contract has been completed records to the satisfaction of the University of all expenditures which are reimbursable by the University and of the hours worked and costs incurred in connection with any employees of the Consultant paid for by the University on a time charge basis. The Consultant shall on request afford the University or its representatives such access to those records as may be required by the University in connection with the Contract.

#### **6. CORRUPT GIFTS OR PAYMENT'S**

The Consultant shall not offer or give, or agree to give to any employee or representative of the University any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the University or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Consultant is drawn to the criminal offences created by the Prevention of Corruption Acts 1889 to 1916.

#### **7. COPYRIGHT**

- 7.1 All reports and other documents and materials and the copyright or similar protection therein arising out of the performance by the Consultant of his duties hereunder are hereby assigned to and shall vest in the University absolutely.

- 7.2 The provisions of this Condition 7 shall apply during the continuance of this Contract and after its termination howsoever arising.

#### **8. INDEMNITY AND INSURANCE**

- 8.1 The Consultant shall indemnify the University, its servants and agents against all actions, suits, claims, demands, costs and expenses incurred by or made against the University, its servants or agents in respect of any loss or damage or personal injury (including death) which arises from any advice given or anything done or omitted to be done under this Contract to the extent that such loss, damage or injury is caused by the negligence or other wrongful act of the Consultant, his servants or agents..

- 8.2 The Consultant (if an individual) represents that he is regarded by both the Inland Revenue and the Department of Social Security as self-employed and accordingly shall indemnify the University against any tax, national insurance contributions or

similar impost for which the University may be liable in respect of the Consultant by reason of this Contract.

## **9. EQUALITY AND DIVERSITY**

- 9.1 The Consultant agrees to comply with the University's policies and procedures to prevent unlawful discrimination on the grounds of sex, race, disability, sexual orientation, age, religion and belief.
- 9.2 In accordance with its responsibilities under the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000 and the Race Relations Act 1976 (Amendment) Regulations 2003) to eliminate unlawful racial discrimination, promote equal opportunities and promote good relations between people of different racial groups, the University requires its suppliers, contractors and consultants to comply with the terms of this section.
- 9.3 The Consultant warrants that its own practices and procedures comply with legislation to prevent unlawful discrimination and that its employees are fully trained on matters relating to the prevention of unlawful discrimination.
- 9.4 The Consultant will provide such information as required by the University in relation to its compliance with anti-discrimination legislation and will co-operate with any investigation by the University or a body empowered to carry out such investigations under the relevant legislation.
- 9.5 Where any investigation is conducted, or proceedings are brought which arise directly or indirectly out of any act or omission of the Consultant, its agents or sub-contractors and where there is a finding against the Consultant in any such investigation or proceedings, the Consultant shall indemnify the University with respect to all costs, charges and expenses (including legal and administrative expenses) incurred by the University during or in connection with any such investigation or proceedings and further indemnify the University for any compensation, damages, costs or other award the University may be ordered or required to pay to a third party.
- 9.6 Without prejudice to its remedies set out above, the University may terminate the Agreement if notice has been given to the Consultant of a substantial or persistent breach of this clause providing that a reasonable period has been given during which the breach may have been rectified and the Consultant has failed to remedy the breach within the stated period.

## **10. CONFIDENTIALITY**

- 10.1 The Consultant shall keep secret and not disclose and shall procure that its employees keep secret and do not disclose any information of a confidential nature obtained by it by reason of this Contract except information which is in the public domain otherwise than by reason of a breach of this provision. The provision of this paragraph shall apply during the continuance of this Contract and after its termination howsoever arising.

## **11. TERMINATION**

- 11.1 The Consultant shall notify the University in writing immediately upon the occurrence of any of the following events:
- (a) where the Consultant is an individual and if a petition is presented for the Consultant's bankruptcy or a criminal bankruptcy order is made against the Consultant, or he/she makes any composition or arrangement with or for the

- benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his/her affairs; or
- (b) where the Consultant is not an individual but is a firm or a number of persons acting together in any capacity, if any event in (a) or (c) of this Condition occurs in respect of any partner in the firm or any of those persons or a petition is presented for the Consultant to be wound up as an unregistered company; or
  - (c) where the Consultant is a company, if the company passes a resolution for winding-up or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.
- 11.2 On the occurrence of any of the events described in paragraph 11.1 or, if the Consultant shall have committed a material breach of this Contract and (if such breach is capable of remedy) shall have failed to remedy such breach within thirty days of being required by the University in writing to do so or, where the Consultant is an individual, if he/she shall die or be adjudged incapable of managing his/her affairs within the meaning of Part VII of the Mental Health Act 1983, the University shall be entitled to terminate this Contract by notice to the Consultant with immediate effect.
- 11.3 In addition to its rights of termination under paragraph 11.2, the University shall be entitled to terminate this Contract by giving to the Consultant not less than thirty days notice to that effect.
- 11.4 Termination under paragraphs 11.2 or 11.3 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the University and shall not affect the continued operation of Conditions 7 and 10.
- 11.5 Where, at the request of the Consultant, termination of the contract becomes necessary before the work has been completed then this will be agreed by negotiation and subject to the University's consent (which will not be unreasonably withheld).

## **12. RECOVERY OF SUMS DUE**

Wherever under this Contract any sum of money is recoverable from or payable to the Consultant, that sum may be deducted from any sum then due, or which at any later time may become due, to the Consultant under this Contract or under any other agreement or contract with the University.

## **13. ASSIGNMENT AND SUB-CONTRACTING**

- 13.1 The Consultant shall not assign or sub-contract any portion of the Contract without the prior written consent of the University. Sub-contracting any part of the Contract shall not relieve the Consultant of any obligation or duty attributable to it under the Contract or these conditions.
- 13.2 Where the University has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Consultant to the University immediately it is issued.

## **14. NOTICES**

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, telemessage, facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Purchase Order, or to such other address as the party may by notice to the other have substituted therefor, shall be deemed effectively given on the day when in the ordinary course of the

means of transmission it would first be received by the addressee in normal business hours.

**15. STATUS OF CONTRACT**

Nothing in the contract shall have the effect of making the Consultant the servant of the University of Westminster.

**16. ARBITRATION**

All disputes, differences or questions between the parties to the Contract with respect to any matter or thing arising out of or relating to the Contract, other than a matter or thing as to which the decision of the University is under the Contract to be final and conclusive, and except to the extent to which special provision for arbitration is made elsewhere in the Contract, shall be referred to the arbitration of two persons one to be appointed by the University and one by the Consultant or their Umpire, in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re-enactment thereof.

**17. HEADINGS**

The headings to Conditions shall not affect their interpretation.

**18. GOVERNING LAW**

These Conditions shall be governed by and construed in accordance with English law and the Consultant hereby irrevocably submits to the jurisdiction of the English courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the University to take proceedings against the Consultant in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

*Revised February 2011*