

# TERMS AND CONDITIONS OF CONSULTANCY SERVICES

## 1. APPOINTMENT AND BASIS OF AGREEMENT

- 1.1 With effect from the Commencement Date set out overleaf you the Client named overleaf appoint us, ICIS as defined overleaf to perform the Services (as defined below) in accordance with these Conditions.
- 1.2 These conditions govern the Contract between us to the exclusion of any other terms which you may ask us to sign or which you may supply.
- 1.3 Any variation to these Conditions is of no effect unless agreed in writing by our authorised representative.
- 1.4 "Services" means the consultancy services which we are supplying as described overleaf.
- 1.5 "Contract" means a contract for the supply of services on these Conditions.
- 1.6 You are responsible for ensuring that you properly request the exact Services you require and for giving us all the information we need to perform the Services.
- 1.7 Our quotation is not on offer and may be withdrawn at any time.
- 1.8 Your order or authority to proceed is your offer to purchase the Services, which isn't accepted by us until we confirm our written acceptance or begin to provide the Services.

## 2. PROVISION OF THE SERVICES

- 2.1 We shall provide the Services to you in accordance with these Conditions.
- 2.2 We shall use our reasonable endeavours to perform the Services in accordance with any timescale agreed in writing between us.
- 2.3 We may require attendees to prepare for the training course. Where this is the case we will provide you with all necessary information to enable attendees to prepare in good time prior to the start of the course.

## 3. YOUR OBLIGATIONS

- 3.1 You will grant us access to such persons, facilities and premises as shall be necessary in order to provide the Services, subject to such agreement and reasonable conditions regarding the use of your facilities and premises as we may agree in writing from time to time.
- 3.2 Where we are providing training services:-
  - 3.2.1 on receipt of a request for training we will discuss with you your training needs and agree a training programme that meets your requirements;
  - 3.2.2 we will discuss with you the venue for the training;
  - 3.2.3 if you are to provide the training venue, we will inform you as soon as possible and in any event no later than one week prior to the date of the relevant training course, our requirements for the training room, including its size, room layout and any equipment we may require. If we are providing the venue we will inform you of its location and any other relevant information;
  - 3.2.4 if you provide the training venue, you are responsible for ensuring that the training room meets our requirements as specified pursuant to condition 3.2.3;
  - 3.2.5 you will be responsible for ensuring that all attendees are aware of the date of the training and for providing them with the necessary course information including any preparatory information or exercise which we inform you of; and
  - 3.2.6 if you cancel any training, such cancellation will be subject to our cancellation policy set out in condition 5.
- 3.3 Where you require an assessment or, a therapy intervention programme or an individual education package:-
  - 3.3.1 we shall consider your request and discuss with you the needs of the person requiring assistance (the "Identified Person");
  - 3.3.2 you shall provide access to the Identified Person;
  - 3.3.3 you shall be responsible for the completeness, suitability, legal compliance, accuracy and timely delivery of all necessary information including all relevant background information on the Identified Person to enable us to perform our obligations under the Contract; and
  - 3.3.4 you shall provide such staff, background information and assistance in order to enable our staff to carry out any services in relation to the Identified Person. Particular regard will be made to the safety and security of our staff, agents or subcontractors whilst carrying out any such assessment.
- 3.4 You warrant to us that you shall comply with the relevant requirements of the Data Protection Act 1998.

## 4. PRICE AND PAYMENT

- 4.1 In consideration of us providing the Services to you, you agree to pay the charges set out overleaf together with our out of pocket expenses incurred in the provision of the Services.
- 4.2 All charges are exclusive of any applicable VAT.
- 4.3 Any Services we perform which are in addition to those specified overleaf shall be the subject of an additional charge at our standard hourly rates then prevailing, unless otherwise agreed in writing with you.
  - 4.4 If the cost to us of supplying the Services increases as a result of:-
    - 4.4.1 any breach by you of these Conditions;
    - 4.4.2 the supply by you of incorrect or inadequate information;
    - 4.4.3 any change in any applicable law or regulation; or
    - 4.4.4 any other factor beyond our reasonable control (including any increase in costs or fees payable by us to any third party in respect of the Services in question), we will add such increase to the charges. We will notify you in writing as soon as reasonably practicable in advance of any such increase. In any event, the charges payable for the Services may be varied from time to time by agreement in writing between the parties.
- 4.5 Payment for the Services is due and payable 30 days after date of invoice without deduction or set-off. However, payment is due and payable immediately upon cancellation or termination of the Contract between us.
- 4.6 If you fail to pay any invoice when payment is due, the total price of all Services shall fall due and payable on demand, we may cancel the contract between us, suspend further performance of the Services and/or claim interest and late payment compensation under the Late Payment of Commercial Debts (Interest) Act 1998 and Late Payment of Commercial Debts Regulations 2002. We also reserve the right to charge £15.00 for each letter we send to you requiring payment of unpaid invoices and to recover all debt recovery costs, fees and disbursements incurred by us in court proceedings to recover monies due to us and/or in implementing insolvency proceedings under the Insolvency Act 1986 (including legal fees charged to us by our legal advisers).

## 5. CANCELLATION POLICY

- If you cancel a training course you will be liable to pay the following cancellation charges which you accept are a reasonable pre-estimate of the cost we will incur as a result of the cancellation:-
- 5.1 if you cancel 91-120 days prior to the training event you will be liable to pay 50% of the charges set out overleaf;
  - 5.2 if you cancel 61-90 days prior to the training event you will be liable to pay 75% of the charges set out overleaf; and
  - 5.3 if you cancel 60 days or less prior to the training event you will be liable to pay 100% of the charges set out overleaf.

## 6. PROGRESS MEETINGS AND CHANGES TO THE SERVICES

- 6.1 Each party shall appoint a representative who shall be authorised to make decisions relating to the Services.
- 6.2 Each party shall inform the other of any change in the identity of its representative during the course of the Contract.
- 6.3 The representative of each of the parties undertakes to hold regular meetings at such times and venues as shall be agreed between the parties to review the manner in which we are providing the Services.
- 6.4 In the event that either party wishes to alter the Services (any such alteration being an "Amended Service") then it shall make a written submission to the other party setting out its proposals.
- 6.5 We shall on receipt of any such proposal by you or otherwise if we made any such proposal ourselves, state in writing the effect (if any) that such Amended Service shall have on the provision of the Services in accordance with any agreed timescale. We shall also inform you of any additional charges you will be required to pay for the Amended Service.

## 7. CONFIDENTIALITY

- 7.1 All information supplied by either party at any time in connection with the Contract:-
  - 7.1.1 is the property of the disclosing party and must be returned to the disclosing party on request;
  - 7.1.2 shall be regarded as confidential and shall be kept confidential by the receiving party; and
  - 7.1.3 shall not be published or disclosed to any third party or used by the receiving party except for the purpose of implementing the Order.
- 7.2 The obligations under this condition 7 shall remain in force notwithstanding completion, cancellation or termination of the Contract.

## 8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 All Intellectual Property Rights, including rights in designs, copyright, know-how, and confidential or proprietary information and any other intellectual property rights of whatever nature (the "IPR"), in all deliverables and materials we create in the provision of the Services shall be our property. We shall grant you a licence to use all such deliverables and materials in such manner as the parties shall agree for the duration of the Contract.
- 8.2 For the avoidance of doubt, nothing in the Contract shall have the effect of transferring to you or requiring the transfer to you of:-
  - 8.2.1 any IPR in or any other right, title and interest in or to work created or developed by us other than as specifically set out in this Agreement;
  - 8.2.2 any IPR in or any other right, title or interest in or to work created or developed or used by us in connection with the performance of the Services.
- 8.3 The provisions of this clause 8 shall continue in force notwithstanding the termination or expiry of the Contract for any reason.

## 9. WARRANTY

- We warrant that:-
- 9.1 we will provide the Services exercising all reasonable care and skill and in all respects in accordance with the terms of the Contract;
  - 9.2 we have the full right, power and authority to provide the Services in accordance with the terms of the Contract;
  - 9.3 we are fully experienced, financed, qualified, equipped and organised to perform our obligations in accordance with these Conditions;
  - 9.4 we will provide the Services using a sufficient number of personnel who shall have the necessary training, qualifications and experience; and
  - 9.5 we will perform the Services and in accordance with the provisions of the Data Protection Act 1998.

## 10. LIMITATION OF LIABILITY

### YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 10.1 The following sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents or subcontractors) to you in respect of any breach of these Conditions and any representation, statement, act or omission (including negligence) arising under or in connection with the Contract between us and in respect of any contemplated performance or lack of performance.
- 10.2 All warranties, conditions or other terms implied by statute, common law or trade usage are excluded to the fullest extent permitted by law.
- 10.3 Nothing in these Conditions excludes or limits our liability for death or personal injury caused by our negligence or for fraudulent misrepresentation.
- 10.4 Subject to conditions 10.2 and 10.3:-
  - 10.4.1 our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the Contract between us shall be limited to the amount paid by you of the charges set out overleaf; and
  - 10.4.2 we shall not be liable to you for any loss of profit, loss of production, depletion of goodwill and any indirect, special or consequential losses, damages, costs or expenses whatsoever which arise out of or in connection with the Contract between us.

## 11. TERMINATION

- 11.1 Without prejudice to the rights of either party to terminate the Contract provided other than in this condition 11, either party may terminate the Contract immediately by written notice to the other if:-
  - 11.1.1 the other commits a material breach of the Contract which is incapable of remedy or, if capable of remedy, has not been remedied within 28 days from the date of receipt of notice from the party not in breach, specifying the breach and requiring its remedy; or
  - 11.1.2 if the other party stops payment of its debts or ceases or threatens to cease to carry on its business or substantially the whole of its business or is unable to pay its debts or enter into any arrangements with its creditors generally; or
  - 11.1.3 the other party becomes or is declared insolvent or a resolution is passed for the winding up of the other party or it convenes a meeting of its creditors or makes or proposes to make any arrangement or composition with its creditors or becomes subject to any other insolvency procedure in any jurisdiction or (without prejudice to the generality of the foregoing) an administrator, liquidator, an administrative receiver, a receiver, manager, trustee, custodian or analogous officer is appointed in respect of all or any part of its property, undertaking or assets or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the court to make a winding up or bankruptcy order or the other party takes or suffers any similar or analogous action in consequence of a debt; or
  - 11.1.4 the other party ceases, or threatens to cease, to carry on its business; or
  - 11.1.5 the other party (being a natural person) shall die or become mentally incapacitated, or (being a partnership or other unincorporated association) shall be dissolved or become subject to any bankruptcy or analogous insolvency procedure in any jurisdiction.
- 11.2 Termination of the Contract shall not affect the rights and duties accrued before termination.

## 12. GENERAL

- 12.1 Neither we nor you shall be liable to the other or deemed to be in breach of contract by reason of any delay in performing or failing to perform any of its respective obligations if the delay of failure was beyond the party in default's reasonable control.
- 12.2 If any provision of these Conditions is found to be invalid, unenforceable or unreasonable, it shall be severed from the remainder of the Contract and the remainder shall not be affected.
- 12.3 Waiver or delay by either party in enforcing or partially enforcing any provision of the Contract is not a waiver of any of that party's rights under the Contract.
- 12.4 Any waiver by us of any breach by you is not a waiver of any subsequent breach.
- 12.5 The contact details for the purposes of regulation 7 of the Provision of Services Regulations 2009 are set out in our quotation/proposal.
- 12.6 The information required to be made available under regulation 8 of the Provision of Services Regulations 2009 can be accessed via the following address: <http://www.icisuk.co.uk/provisions.pdf>.
- 12.7 Neither party may assign or subcontract any rights or beneficial interests under the Contract without the prior written agreement of the other party, such agreement not to be unreasonably withheld.
- 12.8 These Conditions and the Contract between us do not create, confer or purport to confer any benefit or right enforceable by any person not a party to it.
- 12.9 These Conditions and the Contract between us –are subject to English law and the exclusive jurisdiction of the English courts.

