



CONDITIONS OF PURCHASE

1. Definitions

In these Conditions of Purchase (the 'Conditions') the following terms shall have the following meanings:-

the 'University' shall mean Bournemouth University Higher Education Corporation of Talbot Campus, Fern Barrow, Poole, Dorset BH12 5BB.

the 'Supplier' shall mean the party named in the Services Specification.

the 'Services' shall mean the services described in the Services Specification.

the 'Services Agreement' means the Services Specification incorporating these Conditions and any schedules referred to in and attached to the Services Specification.

2. Acceptance of Agreement

2.1 The Supplier will provide the Services subject to the Conditions.

2.2 Acceptance by the Supplier of the Services Agreement shall be constituted by the earlier of:

(i) the Supplier signing and returning to the University the acknowledgement copy of the Services Specification; and

(ii) the Supplier starting to perform the Services.

2.3 The rights of the University hereunder shall be in addition to and without prejudice to any other rights it may have whether at common law or under any applicable statute, statutory instrument or other regulation.

3. Performance

3.1 The date of performance specified in the Services Specification shall be of the essence of the contract between the Supplier and the University.

3.2 The University shall be entitled at any time prior to performance to cancel the whole or any non-performed part of the Services by notice in writing to the Supplier and the University shall not be liable to the Supplier for any loss arising from such cancellation or variation (including consequential loss).

3.3 The Supplier shall give the University immediate written notice of any anticipated delay in the performance of the Services.

4. Price & Payment

4.1 The price for the Services shall be as stated in the Services Specification. The University shall not be liable for any costs or charges in addition to the stated price.

4.2 Unless stated otherwise in the Services Specification, the Supplier's invoice shall be raised no earlier than the date of full performance of the Services. This invoice shall include such supporting information as required by the University to verify the accuracy of the invoice, including but not limited to the information specified in the Services Specification.

4.3 Payment of undisputed invoices shall be due 30 days following receipt of the invoice by the University.

4.4 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the University to inspect such records at all reasonable times on request.

5. Further Obligations

5.1 The Supplier agrees that:-

(i) it shall diligently deliver services of a high professional standard to the satisfaction of the University; and

(ii) it shall at all times take all reasonable care of the University premises and facilities. The Supplier will be liable for all loss of or damage to such premises and facilities resulting from any act or omission by the Supplier.

5.2 All other conditions and warranties implied by law applicable to the Services shall be deemed to be incorporated in these Conditions and no exclusion or limitation of any such implied conditions or warranty by the Supplier shall be accepted by the University.

6. Disclosure of Information

6.1 To enable compliance with the Freedom of Information Act 2000 and the Environmental Information Regulations, the University reserves the right to disclose information about the Services Agreement pursuant to a valid request for information.

6.2 The Supplier shall not disclose any information relating to the Services Agreement or the University's activities without the prior written consent of the University, which shall not be unreasonably withheld. Such consent shall not be required where the information is already in the public domain, is in the possession of the Supplier without restriction as to its disclosure, or is received from a third party who lawfully acquired it and is under no obligation restricting its disclosure.

7. Sub-Contracting and Assignment

The Supplier shall not sub-contract or transfer, assign, charge, or otherwise dispose of any of the Supplier's rights or obligations under the Services Agreement or any part of it without the prior written consent of the University.

8. Intellectual Property Rights

8.1 Subject to any prior rights of the University, and to the rights of third parties arising otherwise than under the Services Agreement, such intellectual property rights as are derived from or arise as a result of the performance of the Services Agreement by the Supplier shall vest in the University. The Supplier hereby assigns to the University, with full title guarantee, all such intellectual property rights which may subsist. This assignment shall take effect on the date of the Services Agreement or as a present assignment of future rights that will take effect immediately on the coming into existence of the intellectual property rights produced by the Supplier. The Supplier shall execute all documentation necessary to execute this assignment.

8.2 The Supplier shall waive or procure a waiver of any moral rights subsisting in copyright produced from, or arising as a result of, the performance of the Services Agreement.

8.3 The Supplier shall ensure that if it uses any of its pre-existing intellectual property rights as part of the performance of the Services Agreement, then it shall grant the University a non-exclusive, perpetual, royalty free and irrevocable licence (with the right to sublicense) to use, reproduce, modify, develop and maintain the said intellectual property rights as may be necessary for the purpose of receiving the Services or using or exploiting the results of the Services (the 'Purposes').

8.4 The Supplier shall ensure that the third party owner of any intellectual property rights that are or which may be used to perform the Services Agreement grants to the University a non-exclusive licence or, if itself a licensee of those rights, shall grant to the University an authorised sub-licence, to use, reproduce, modify, develop and maintain the intellectual property rights as may be necessary for the Purposes. Such licence or sub-licence shall be non-exclusive, perpetual, royalty free and irrevocable and shall include the right for the University to sub-licence.

8.5 The Supplier shall not infringe any intellectual property rights of any third party in supplying the Services and the Supplier shall, during and after the Services Agreement period, indemnify and keep indemnified and hold the University harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the University may suffer or incur as a result of or in connection with any breach of this clause.

9. Termination

9.1 Without prejudice to any other right or remedy it may have, the University may terminate the Services Agreement forthwith without any liability for damages if the Supplier:

- (i) commits a material breach of its obligations under the Services Agreement or persistently fails for whatever reason to perform to the reasonable satisfaction of the University its obligations under the Services Agreement;

- (ii) acts in a way materially contrary to the interests of the University whilst providing or purporting to provide the Services under the Services Agreement;

- (iii) is unable to pay its debts as they fall due, becomes bankrupt or has a receiver, administrator, administrative receiver or liquidator appointed or calls a meeting of its creditors or ceases for any other reason to carry on its business.

9.2 On termination of the Services Agreement the Supplier shall deliver up to the University all documents, formulae, papers, drawings, software, data, specifications, reports, notes and materials of any sort which were furnished by the University to the Supplier, or which were prepared by or on behalf of the Supplier for the University during the performance of Services under the Services Agreement.

9.3 Clauses 6, 8, 15.2, 15.6 and other provisions of the Services Agreement which by implication are intended to survive shall survive termination or expiry of the Services Agreement.

10. Force Majeure

Neither party shall be liable to the other for any default hereunder where such default is directly or indirectly caused by or arises out of any event beyond its reasonable control. It is hereby agreed between the parties that the mere shortage of labour, materials or utilities shall not constitute force majeure unless caused by circumstances which are themselves force majeure. Any claim that any default hereunder shall have been caused by force majeure shall be notified in writing immediately by the party making the claim to the other.

11. Waiver

The rights of the University hereunder shall not be prejudiced or restricted by any indulgence or forbearance extended to the Supplier and no waiver by the University in respect of any breach of these Conditions by the Supplier shall operate as a waiver in respect of any subsequent breach.

12. Status of the Supplier

The Supplier is an independent contractor and shall at all times be responsible for the payment of all due taxes and contributions properly payable by the Supplier. The Supplier will fully and effectually indemnify the University in respect of any claims made against the University in respect of the Supplier's income tax, national insurance or other similar contributions relating to the Supplier's obligations under the Services Agreement.

13. Observance of Legal and Other Requirements

The Supplier shall carry out its obligations under the Services Agreement in a manner that conforms with any relevant legal requirements in force during the period of the Services Agreement.

The Supplier will comply with all reasonable and lawful instructions given by the University whilst on the

University's premises and will comply with any rules or obligations in force at the University's premises.

14. Insurance

The Supplier will effect and maintain with a reputable insurance company, a policy or policies of insurance covering:

14.1 claims, actions, proceedings, legal costs, expenses, and any other liabilities in respect of any death or personal injury, or loss of, or damage to property which is caused directly or indirectly, by any act or omission by the Supplier; and

14.2 claims which may arise out of, or be incidental to, the carrying out of the Services and arising out of negligent acts or defaults of the Supplier or any person employed or acting for him in the performance of the Services.

15. General

15.1 Any notice required to be given hereunder shall be sufficiently served if sent by first class post to the address set out in the Services Specification of either party or to such other address as may have been notified by that party to the other and any notice so served shall be deemed to have been served two working days after the date of posting.

15.2 The Services Specification and these Conditions and any contract between the Supplier and the University incorporating the same shall be governed by and construed in accordance with English Law. The parties hereby agree to submit to the exclusive jurisdiction of the English Courts.

15.3 These Conditions, the Services Specification and any schedule referred to in and attached to the Services Specification constitute the entire understanding and agreement between the parties relating to the subject matter of the Services Agreement.

15.4 In the event of and only to the extent of any conflict between these Conditions and/or the Services Specification and/or any other schedule which forms part of the Services Agreement, the conflict shall be resolved in accordance with the following order of precedence:

- (i) Services Specification;
- (ii) any schedule to the Services Specification (and if more than one, in order of attachment);
- (iii) Conditions of Purchase.

15.5 Any clauses hereof which are held to be invalid or unenforceable shall be deemed to be severable and shall not affect the validity of the other clauses.

15.6 These Conditions and any contract between the Supplier and the University do not create any rights enforceable by any person, firm or company not a party to them.