



Institute of Health and Wellbeing

General Terms and Conditions

INTRODUCTION

These are the Terms and Conditions which apply to the service which we will provide to you. References to “we”, “us” or “our” in these Terms and Conditions shall be read as The University of Northampton, Park Campus, Boughton Green Road, Northampton, NN2 7AL.

• MEANING IN THESE TERMS AND CONDITIONS

- In these Terms and Conditions the following words have the following meanings:

“Client” means any person(s), firm or company who purchases Services from us;

“Conditions” means the standard terms and conditions set out in this document and any special terms and conditions agreed in the writing between the Client and us;

“Contract” means any contract between us and the Client for the provision of Services incorporating these Conditions and the Proposal;

“Input Material” (background intellectual property) means any documents or other materials and any data or other information provided by either the Client or us relating to the Services;

“Output Material” (arising intellectual property) means any documents or other materials and any data or other information provided by us relating to the services;

“Proposal” means the proposal, tender or other documentation provided by us detailing the Services to be provided to which the Conditions are appended;

“Services” means the research, consultancy, educational and training services within our charitable purpose to be provided by us for the Client;

• BASIS OF THE CONTRACT

- Unless there is a variation under Condition 2.2 the Contract will be on the Conditions to the exclusion of any other terms and conditions (including any terms and conditions which the Client purports to apply under any purchase order, confirmation of order, specification or other document). In the event of a conflict between the terms of the Conditions and the terms of the Proposal, the terms of the Proposal shall prevail;
- We shall have the right at any time, at sole discretion, to make modifications, additions and deletions to the Conditions. Any changes to the Conditions will be notified to the Client in writing.
- Any representations about the Services shall have no effect unless confirmed by a duly authorised member or representative of our senior executive in writing. The Client acknowledges that it does not rely on, and waives any claim for breach of, any representation which are not so confirmed.
- We are entitled to correct any typographical, clerical or other error or omission in any of our sales literature, price list, acceptance offer, invoice or other document or information issued by us relating to the Services without any liability and such documents do not constitute offers made by us.

• ORDERS AND CONTRACT

- No order placed by the Client shall be deemed to be accepted by us until a written acknowledgement or order is issued by us. Any quotations given by us are on the basis that no contract will come into existence until we despatch an acknowledgement of order to the Client. Any quotation is valid for a period of 30 days only from its date or from the date we withdraw it if earlier.
- The Client must ensure the terms of its order are accurate and complete.
- The Services shall be those set out in the Proposal and otherwise in accordance with our current brochures or other publishes literature relating to the Services from time to time, subject to the Conditions.
- No order which has been accepted by us may be cancelled by the Client except with the agreement in writing of a duly authorised member or representative our senior executive and if it is cancelled the Client shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by us as a result of cancellation.

• PRICE

- 4.1. Unless otherwise agreed by us in the process of the Services shall be the price set out in the Proposal.
- 4.2. The price for the Services is exclusive of any value added tax, other taxes,

5. PAYMENT

- 5.1. Payment of the full price of the Services is due no later than 30 days from the date from our invoice, and shall be paid in pounds sterling without any deduction set off or withholding whatsoever unless the Client has a valid court order requiring an amount equal to such a deduction to be paid by us to the Client.
- 5.2. The time for payment of the price shall be of the essence. Receipts for payment will be issued only upon request.
- 5.3. No payment shall be deemed to have been received until we have received cleared funds.
- 5.4. If the Client fails to make any payment on the due date then, without affecting any other right or remedy available to us, we shall be entitled to:
 - 5.4.1. cancel the Contract or suspend any further performance of the Services; and/or
 - 5.4.2. claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.5. All payments payable to us shall become due immediately upon termination of the Contract despite any other provision.

6. PERFORMANCE

- 6.1. Any dates specified for the performance of the Services are approximate only and we shall not be liable for any loss, costs, damages, charges or expenses cause directly or indirectly by any delay in performance of the Services. Time for performance of the Services shall not be of the essence.

7. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

- 7.1. The property and any copyright or other intellectual property right in:
 - 7.1.1. any Input Material shall (subject to any such rights of any third party) belong to the party introducing it;
 - 7.1.2. any Output Material shall, unless otherwise agreed in writing between the Client and us, belong to us, subject only to the right of the Client to use the Output Material for the purposes of utilising the Services.
- 7.2. All Output Material or other information provided by us which is so designated by us shall be kept confidential by the Client; but this shall not apply to any documents or other materials, data or other information which are public knowledge at the time when they are so provided, and shall cease to apply if at any future time they become public knowledge through no fault of the Client, or which must be disclosed under applicable law.
- 7.3. The Client warrants that any Input Material and its use by us for the purpose of providing the Services will not infringe the copyright or other rights of any third party and the Client shall indemnify us against any loss, damages, costs, expenses or other claims from any such infringement.

8. QUALITY

- 8.1. In relations to the Services we warrant to the Client that they will be provided using reasonable care and skills and, as far as reasonably possible, in accordance with the Proposal.
- 8.2. Any claim by the Client which is based on the quality of the Services shall be immediately notified to us.
- 8.3. To the fullest extent permitted by law, all conditions and warranties whether express or implied by statute, common law, trade usage or otherwise are excluded, except as set out in expressly in these Conditions.

9. LIMITATIONS AND LIABILITY

- 9.1. The following provisions set out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors) to the Client in respect of:
 - 9.1.1. any breach of the Conditions; and
 - 9.1.2. any representation, statement or tortious act or mission including negligence arising under or in connection with the Contract.
- 9.2. Nothing in the Conditions excludes or limits the liability of us for death or personal injury caused by our negligence or fraudulent misrepresentation or any other liability that may not be excluded as a matter of law.

THE CLIENT'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISION OF CONDITION 9.3
- 9.3. Subject to Condition 9.2:
 - 9.3.1. our liability is contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price of Services; and
 - 9.3.2. we shall not be liable to the Client for any loss of profit and/or, loss of business and/or depletion of goodwill and/or consequential loss suffered by any person and/or costs, expenses which arise out of or in connection with the Contract. The Client is responsible for making its own arrangements for the insurance of any excess loss.



9.4 Except in respect of any loss or damage caused by our negligence the Client undertakes to indemnify us against any loss, costs, claims, expenses or fees we may incur relating to the Clients's breach of the Contract and/or any of the Conditions.

9.5 We shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any Input material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form or arising from their late arrival or non-arrival, or any other fault of the Client.

10. INSOLVENCY ETC OF THE CLIENT

If:

10.1 the Client makes any voluntary arrangement with its creditors or becomes subject to an administration order or becomes bankrupt or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

10.2 an encumberancer takes possession, or a receiver is appointed, f any of the property or assets of the Client; or

10.3 the Client ceases or threatens to cease, to carry on business; or

10.4 the Client shall suffer any analogous proceedings under foreign law; or

10.5 we reasonably apprehend that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly; or

10.6 the client commits any breach of the Contract and (if capable of remedy) fails to remedy the breach within 30 days after being required to do so by notice in writing from us then, without affecting any other right or remedy available to us, we shall be entitled to cancel the Contract immediately or suspend any further performance of the Services under the Contract without any liability to the Client, and if the Services have been performed but not paid for the price shall become immediately due and payable despite any previous agreement or arrangement to the contrary.

11. FORCE MAJEURE

We reserve the right to suspend the provision of the Services to the Client (without liability to the Client) if we are prevented from or delayed in the carrying on of our business due to circumstances beyond our reasonable control of including, without limitation, strikes, lock outs or other industrial disputes (whether involving our workforce or the workforce of any other party), act of God, government actions, war riot, hostilities (whether war be declared or not), armed conflict, terrorist attack, terrorist activity, nuclear, chemical or biological contamination, illness, sonic boom, civil commotion, invasion, revolution, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, power failure, breakdown of plant or machinery, fire, flood, storm, disease, epidemic, default of suppliers or subcontractors, difficulties or increased expense in obtaining raw materials, labour fuel, parts of machinery, or import or export regulations or embargoes; Provided that if the event in question continues for a continuous period in excess of 20 days the Client shall be entitled to give notice in writing to us to terminate the Contract.

12. ACADEMIC PUBLICATION

12.1 The Services are undertaken in pursuance of a primary charitable purpose of UoN; that is the advancement of education through teaching and research. Therefore, any employee or student of UoN (whether or not involved in providing the Services) may, subject to the provisions of Condition 12.2:

12.1.1 discuss work undertaken as part of the Services in UoN seminars, tutorials and lectures; and

12.1.2 publish work based on or incorporating any of the Output Material.

12.2 UoN will submit to the Client, in writing, details of any Results and any of the Output Material that any employee or student of UoN intends to publish at least 30 days before the date of the proposed publication. The client may, by giving written notice to UoN ("a Confidentiality Notice"): require UoN to delay the proposed publication for a maximum of 12 months after receipt of the Confidentiality Notice if, in the Client's reasonable opinion, that delay is necessary to prevent the publication of any confidential information. The Client must give that Confidentiality Notice within 15 days after it receives details of the proposed publication. If UoN does not receive a Confidentiality Notice within that period, its employee or student may proceed with the proposed publication, provided that, whether or not it has received a Confidentiality Notice, any of the Client's Input Material may not be published.

12.3 The parties agree that any publications relating to the Services will acknowledge the equal involvement of both parties.

13. GENERAL PROVISIONS

13.1 Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and may be delivered personally or by fax, first class recorded delivery post or first class air mail letter. Any notice to us must be in writing marked for the attention of Katie Jones either at Park Campus, Boughton Green Road, Northampton, NN2 7AL or via email to Katie.jones@northampton.ac.uk . A notice shall be deemed to have been served (if personally delivered) at the time of delivery or (if sent by first class recorded delivery post) forty-eight hours after posting or (if sent by first class air mail letter) ninety-six hours after posting or (if sent by fax) at the time of transmission.

13.2 The client may not assign, transfer, charge or deal in any other manner with the Contract or any of its rights under it, nor purport to do any of the same, nor subcontract any or all of its obligations under the Contract without having obtained our prior written consent.

13.3 We shall be entitled to assign our rights under the Contract and sub contract any or all our obligations under the Contract to any third party.

13.4 A person who is not a party to the Contract has no rights under Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

13.5 No waiver by us of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same of any other provision.

13.6 Any failure on our part to exercise, or any delay on our part in exercising, any right or remedy under the Contract shall not constitute a waiver of that right or remedy.

13.7 Except in respect of any undisputed credit or payment due and owing by us to the Client shall pay all amounts due under the Contract in full without any deduction or withholding other than as required by law and the Client shall not be entitled to assert any credit set off or counterclaim against us in order to justify withholding payment of any such amount in whole or in part.

13.8 Each of the provision of the Conditions is severable. If any provision is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or unenforceability in that jurisdiction of the remaining provisions of the Conditions shall not in any way be affected or impaired by it.

13.9 These Conditions and the Contract shall be governed by and construed in accordance with English Law. We and the Client irrevocably agree that the courts of England shall have jurisdiction over any claim or matter to settle any dispute which may arise or of in connection with the Contract and that accordingly any proceedings may be brought in such courts.

13.10 Any notice of proceedings or other notice in connection with or which would give effect to proceedings may without prejudice to any other method of service be served on any party in accordance with Condition 13.1.

13.11 Both we and the Client accept our legal obligation to comply with all statutory requirements, legislation and regulations relating to the outlawing of discrimination on the grounds of age or disability, race, sex, sexual orientation, religion and belief and the promotion of racial equality.

13.12 Both we and the Client shall take all reasonable steps to ensure the observance of the Condition 13 by any of our or its personnel engaged in connection with any Contract.#

14.0 CANCELLATION

14.1 Training Delivery

If you cancel training delivery after a contract has been agreed the following percentage of contract price will be charged:

- Less than 12 weeks before the training delivery date: 33%
- Less than 6 weeks before the training delivery date: 50%
- Less than 4 weeks before the training delivery date: 100%

14.2 Evaluations, research and project work

If you cancel project or other work after a contract has been agreed the following percentage of contract price will be charged:

- Less than 12 weeks before project commencement: 20%
- Less than 6 weeks before project commencement: 33%
- Less than 4 weeks before project commencement: 50%

A minimum of 50% of fee, or the total cost of work to date if greater, will be made if you cancel a project once work has started.