

# STANDARD TERMS AND CONDITIONS FOR THE PROVISION OF SYMPOSIA, EDUCATIONAL COURSES AND WORKSHOPS

## 1. DEFINITIONS

1.1 **Cranfield:** Cranfield University incorporated by Royal Charter.

1.2 **Client:** The person, firm or company, to whom or which the Proposal to which these terms and conditions are attached is addressed.

1.3 **Contract:** The Contract between Cranfield and the Client completed by acceptance by the Client of the Proposal and these terms and conditions.

1.4 **Parties/Party:** Parties shall mean both Cranfield and the Client, and Party shall mean either Cranfield or the Client.

1.5 **Proposal:** The written document setting out the details of the work to be undertaken by Cranfield for the Client together with any supporting schedules.

1.6 **Services:** The work to be performed by Cranfield in accordance with the Proposal.

1.7 **Background Intellectual Property:** Intellectual Property, proprietary information or confidential know-how relevant to the Services which is in the possession of a Party prior to the commencement of the Services or generated after commencement of the Services but independently of them.

1.8 **Intellectual Property:** Intellectual property shall include but not be limited to Patents, registered and unregistered trademarks, copyright material including computer software, technical know-how and other information arising out of the Services.

1.9 **Contract Price:** The total amount payable to Cranfield by the Client for undertaking the Services as specified in the Proposal.

1.10 **Force Majeure:** An occurrence beyond the control of a Party including but not limited to an Act of God, decree of Government, fire, flood, explosion, sabotage, riot, rebellion, war, civil war, armed conflict, terrorism, nuclear, chemical or biological contamination, disease, quarantine, official strike or similar official industrial action or dispute, which directly causes a Party to be unable to comply with all or a material part of its obligations under the Contract.

## **2. ACCEPTANCE OF OFFER**

2.1 These terms and conditions together with the Proposal constitute an offer, and if duly accepted by the Client shall constitute a Contract between Cranfield and the Client whereby Cranfield is to carry out the Services specified for the price stated or calculated in accordance with the Proposal. No other terms and conditions shall be accepted unless agreed in writing.

2.2 No representation whatsoever whether oral or written made prior to the date of the Contract shall be deemed to be incorporated into the Contract or to have any binding effect on Cranfield.

2.3 Acceptance of the Proposal must be in writing. The Proposal shall remain open for a period of ninety (90) days from the date on which it is posted unless prior to acceptance the Client has been specifically notified in writing that the Proposal has been withdrawn. Where such notification of withdrawal is given in writing it shall be effective from the date of posting.

## **3. INTERPRETATION**

If there shall be any apparent inconsistency between these terms and conditions and the Proposal, the Proposal shall prevail.

#### **4. CONFIDENTIALITY**

4.1 All Information which a Party ("the Receiving Party") receives from the other Party ("the Disclosing Party") which the Disclosing Party specifically designates in writing to be confidential prior to disclosure, whether in tangible or visible form or whether communicated orally, shall be treated by the Receiving Party as confidential and the property of the Disclosing Party, and such confidential information shall not be used by the Receiving Party for any purpose other than the performance of the Contract without the written consent of the Disclosing Party.

4.2 This obligation of confidentiality shall not apply to any information:-

(i) in the public domain at the time it was disclosed or which thereafter enters the public domain without breach of the terms of the Contract,

(ii) already known by the Receiving Party at the time of disclosure by the Disclosing Party,

(iii) which becomes known from a source other than the Disclosing Party without breach of the terms of the Contract,

(iv) independently developed by an employee of the Receiving Party to whom no disclosure of any such disclosed information has been made,

(v) which is required to be disclosed by Court Order but only to the extent required by the Order on condition that the Disclosing Party is informed promptly of the Court Order.

4.3 Upon completion of the Services or (if earlier) termination of the Contract, or at any time upon request, the Parties shall promptly return all documents containing confidential information, including all information reduced to writing which was originally disclosed orally, and all copies of the same in its possession.

4.4 The obligations of confidentiality contained in this clause shall expire five (5) years after the date of completion of the Services or earlier termination of the Contract.

#### **5. COURSE PERSONNEL**

Where any teaching staff or guest speakers are specified in the Proposal, Cranfield reserves the right to substitute these with suitable alternatives if circumstances so demand.

## **6. TERMINATION AND SUSPENSION OF CONTRACT**

6.1 Cranfield shall have the right to terminate or suspend the Contract and, in such unlikely event, shall promptly notify the Client accordingly. Unless it can be agreed that the Services can be rescheduled to commence within fourteen (14) days of their original commencement date, any advance payment already made to Cranfield shall be refunded to the Client in full.

6.2 In the event that the Client, by giving notice, terminates or suspends the Services less than fifty-six (56) days in advance of the agreed delivery date a fifty (50) per cent charge of the Contract Price will be payable by the Client. In the event that the Client, by giving notice, terminates or suspends the Services less than thirty-four (34) days in advance of the agreed delivery date a seventy-five (75) per cent charge of the Contract Price will be payable by the Client. In the event that the Client, by giving notice, terminates the Services less than fourteen (14) days in advance of the agreed delivery date then the Client shall be liable to Cranfield for the full Contract Price.

6.3 Either Party may without prejudice to any other rights and remedies in respect of any breach or non-observance of any of the covenants or obligations herein contained by notice in writing to the other Party terminate the Contract forthwith if:-

(i) the other Party shall commit any breach of any of the terms (including without limitation terms concerning the time for payment of the Contract Price) of this or any other contract between them and on its part to be observed or performed PROVIDED if such breach is remediable that notice thereof has previously been given and the same has not been remedied within seven (7) days thereafter;

(ii) if the other Party shall present a petition or have a petition presented by a creditor for its winding-up or shall convene a meeting to pass a resolution for voluntary winding-up or shall enter into any liquidation (other than for the purposes of a bona fide reconstructions or amalgamation) or shall call a meeting of its creditors to seek the protection of the court from action by its creditors or any insolvency process or shall have a receiver or any administrative receiver of all or any of its undertakings or assets or an administrator appointed, or shall be deemed by the applicable statutory provisions to be unable to pay its debts or shall suffer any process equivalent or analogous to any of the aforesaid under any jurisdiction;

(iii) if the other Party, being an individual shall die, or present or have presented against him a petition for a bankruptcy order, or if an effective interim order shall be obtained in respect of him or a voluntary arrangement in respect of him is approved;

(iv) if the other Party permits any judgement against it to remain unsatisfied for fourteen (14) days.

## **7. FORCE MAJEURE**

7.1 Except for payment of money due, neither Party shall be liable for failure to perform its obligations under the Contract, nor give rise to any claim for compensation or damage nor be deemed to be in breach of the Contract, if such failure arises from an occurrence or circumstances reasonably beyond the control of that Party (Force Majeure).

7.2 If either Party is affected by Force Majeure that Party shall give written notice without delay to the other Party of the nature and extent of the circumstances and the date and anticipated duration of the suspension.

7.3 If such Force Majeure causes a delay of sixty (60) days or more, and that such delay may reasonably be anticipated to continue, then either Party may terminate the Contract in accordance with the provisions of Clause 6 above.

7.4 The Party serving notice pursuant to Clause 7.2 shall notify the other in writing as soon as the performance of its obligations is no longer affected by Force Majeure and the Parties shall resume the performance of their respective obligations each to the other with effect from the date so notified

## **8. PAYMENT**

8.1 Unless otherwise stated in the Proposal, Cranfield shall submit an invoice upon completion of the Services and payment shall be due thirty (30) days from the date of invoice.

8.2 In the event of late payment any sum unpaid shall bear interest at the rate of four percent (4%) per annum above National Westminster Bank plc base lending rate for the time being in force until payment is made in full (both before and after any relevant judgement). Without prejudice to any other rights of Cranfield if the Client shall fail to make payment in full accordance with this Clause then Cranfield shall be entitled to suspend all or any other work to be undertaken under this or any other contract with the Client; and in such event the Client shall not in any respect be released from its obligations to Cranfield under this or any other contract. Alternatively instead of suspension Cranfield shall be entitled to terminate the Contract or any other contract with the Client in accordance with Clause 6 and to claim damages from the Client for breach.

## **9. INTELLECTUAL PROPERTY AND USER RIGHTS**

9.1 For the avoidance of doubt nothing in the Contract shall be construed as affecting the ownership of Background Intellectual Property.

9.2 All Intellectual Property arising from performance of the Services shall belong to Cranfield. The Client undertakes that it will not copy or permit the copying of any course notes or other materials provided by Cranfield, nor disclose or permit the disclosure or sell, or hire the same to third parties, nor use the same for running the Client's own courses or workshops.

## **10. LIABILITY**

10.1 Whilst Cranfield shall use all reasonable endeavours to provide a high standard of teaching and the accuracy of any materials provided in conjunction with the Services, Cranfield shall not be responsible for any inaccuracies or omissions in the work or materials unless such inaccuracies or omissions are the result of negligence on the part of Cranfield and its employees.

10.2 Cranfield hereby expressly excludes all conditions, warranties and other terms which might otherwise be implied (whether by common law, by statute or otherwise) as to any of the matters in Clause 10.1. Without prejudice to the generality of the foregoing, Cranfield expressly excludes any terms, conditions or warranties which would otherwise be implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 (as amended), or by any statutory modifications, amendments or re-enactments thereof.

10.3 In the event that Cranfield terminates or suspends the Contract in accordance with Clause 6.1, Cranfield accepts no liability for any direct, indirect or consequential loss(es) incurred by the Client.

10.4 The Parties agree that Cranfield and its employees shall have no liability whatsoever to the Client for any direct, indirect or consequential losses incurred by the Client or any third party arising from the application, adoption, dissemination (or other such action) of information and materials received during the course or workshop.

10.5 Cranfield's total liability in respect of all breaches of the Contract and/or the matters set out in Clause 10 shall in no circumstances exceed the sum of £500,000 in the aggregate.

10.6 Neither Party shall be liable to the other for any death or injury unless it is caused by the negligence of that Party or its representatives, nor shall it be liable to the other for any other loss or damage whatsoever unless it is caused by negligence or that of its representatives.

## **11. INDEMNITY**

The Client agrees to indemnify and keep indemnified Cranfield and its employees servants and agents from and against any and all liabilities, claims, demands, loss, costs, damages or expenses including legal fees resulting from, in connection with, or arising out of any claim asserted against Cranfield relating to or associated with:-  
(i) the Client's use and/or third party use of the any information supplied by Cranfield; or  
(ii) use by Cranfield of any Background Intellectual Property supplied by the Client.

## **12. RELATIONSHIP OF THE PARTIES**

The relationship of the Parties is exclusively that of independent contractors and nothing contained in the Contract shall be construed as creating any partnership, consortium, joint venture, agency or any other legal relationship.

### **13. NON-ASSIGNMENT**

Neither Party may assign, transfer or otherwise dispose of the Contract in whole or in part or any interest therein without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. However this shall not restrict the right of Cranfield where it considers it appropriate to employ or appoint sub-contractors to carry out work relating to the Services provided such sub-contractors are bound by a confidentiality obligation equivalent to that contained in Clause 4 herein.

### **14. PUBLICITY**

The Client agrees that it shall not, without prior written consent of Cranfield, advertise or publicity utilise the Cranfield University name, logo or any trademark associated therewith, in conjunction with the Services or any results thereof.

### **15. NOTICE**

Any notice which may be required to be given by either Party under the Contract shall be deemed to have been duly given if left at or sent by recorded delivery post or facsimile transmission (confirming the same by post) if to Cranfield sent to Cranfield University, Vice-Chancellor's Office, Cranfield, Bedford, MK43 0AL, and if to the Client to the Client's last known place of business or its registered office or to such other address as the Client shall have previously designated in writing.

### **16. ENTIRE AGREEMENT**

The Contract represents the entire agreement between Cranfield and the Client relating to the Services and shall supersede all representations, agreements, statements and understandings made prior to the date of the Contract whether oral or in writing other than those representations, agreements, statements and understandings which have been expressly incorporated into the Contract.

### **17. VARIATIONS TO CONTRACT**

No variation or modification expressed to be an amendment to the Contract shall have any effect unless made in writing and signed by a duly authorised representative of each Party.

### **18. HEADINGS AND SEVERABILITY**

The clause headings are for convenience only and shall not affect their interpretation. If any part of the Contract shall be held to be unenforceable to any extent, the remainder of the Contract shall nevertheless remain in full force and effect.

#### **19. NON-WAIVER**

Failure to terminate the Contract following a breach or other failure to comply shall not be deemed to be a waiver of a Party's defences rights or causes of action arising from such or any future breach or non-compliance. Nor shall failure on the part of either Party at the time or from time to time to enforce or to require the strict adherence and performance of any of the terms and conditions shall affect or impair its right to enforce such terms or conditions in any way.

#### **20. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

For the purposes of the Contracts (Rights of Third Parties) Act 1999, it is agreed that nothing in the Contract shall confer or purport to confer on any third party and right to enforce or any benefit of any term in the Contract.

#### **21. SURVIVAL**

The provisions of the following Clauses shall remain binding upon the Parties after the expiry or any termination under the Contract, 4, 5, 8, 9, 10, 11, 12 and 22.

#### **22. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the Law of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England.