

TERM AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. In these Conditions: 'CLIENT' means the person whose order for the Services is accepted by the Service Provider; 'CONDITIONS' means the standard terms and conditions set out in this document; 'CONTRACT' means the contract for the provision of the Services; "INTELLECTUAL PROPERTY RIGHTS" means any copyright, unregistered design right, registered design right, patent right, trade marks or any other form of industrial property rights (whether registered or unregistered) or any applications in relation to any of the foregoing owned, used, existing or arising in connection with the provision of the Services and the Materials; "KNOW HOW" means technical information, know how, specifications and other information in the possession of the Service Provider relating to or in respect of the Services; "MATERIALS" means materials (including but not limited to any computer software or hardware) supplied by the Service Provider in the course of the Services; "SERVICE PROVIDER" means Liam Healy and Associates; "SERVICE PROVIDER'S WEB-SITE" means the Internet web site having the domain name address www.psychometrics.co.uk; 'SERVICES' means the Services (including any instalment of the Services or any part of them) which the Service Provider is to supply in accordance with these Conditions; "WRITING" includes telex, cable, facsimile transmission and comparable means of communication.
- 1.2. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF THE SALE

- 2.1. The Service Provider shall provide the Services to the Client in accordance with any order of the Client which is accepted in Writing by the Service Provider and confirmed in Writing by the Client, subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.
- 2.2. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Client and the Service Provider.

- 2.3. The Service Provider's employees or agents are not authorised to make any representations concerning the Services unless confirmed by the Service Provider in Writing. In entering into the Contract the Client acknowledges that it does not rely on any such representations which are not so confirmed.
- 2.4. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Service Provider shall be subject to correction without any liability on the part of the Service Provider.

3. ORDERS AND SPECIFICATIONS

- 3.1. No order submitted by the Client shall be deemed to be accepted by the Service Provider unless and until confirmed in Writing by the Service Provider and no Contract is formed until this acceptance is confirmed in Writing by the Client.
- 3.2. The client shall be responsible to the Service Provider for ensuring the accuracy of the terms of any order submitted by the Client, and for giving the Service Provider any necessary information relating to the Services within a sufficient time to enable the Service Provider to perform the Contract in accordance with its terms.
- 3.3. No order which has been accepted by the Service Provider may be cancelled by the Client except with the agreement in Writing of the Service Provider and on terms that the Client shall indemnify the Service Provider 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 the Service Provider as a result of cancellation.

4. CHARGE FOR THE SERVICES

- 4.1. The price of the Services shall be the Service Provider's price set out in the Service Providers Written acceptance of the Clients order.
- 4.2. Unless otherwise stated the price is exclusive of any applicable value added tax, which the Client shall be additionally liable to pay to the Service Provider.

5. TERMS OF PAYMENT

- 5.1. Subject to any special terms agreed in Writing between the Client and the Service Provider, the Service Provider shall be entitled to

invoice the Client for all or part of the price of the Services on or at any time after the performance of the Services or any instalment of the Services.

- 5.2. The Client shall pay the price of the Services without any deduction within 30 days of the date of the Service Provider's invoice. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3. If the Client fails to make any payment by the 5th of each month then, without prejudice to any other right or remedy available to the Service Provider, the Service Provider shall be entitled to:
 - 5.3.1. cancel the Contract or suspend any further performance of the services;
 - 5.3.2. appropriate any payment made by the Client to such of the Services (or the Services supplied under any other contract between the Client and the Service Provider) as the Service Provider may think fit (notwithstanding any purported appropriation by the Client); and
 - 5.3.3. charge the Client interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above Lloyds Bank Plc's base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. DELIVERY

- 6.1. Any dates quoted for performance of the Services are approximate only and the Service Provider shall not be liable for any delay in performance of the Services however caused. Time for performance shall not be of the essence of the Contract.
- 6.2. Where the Services are to be performed in instalments, each performance shall constitute a separate contract and failure by the Service Provider to perform any one or more of the instalments in accordance with these Conditions or any claim by the Client in respect of any one or more instalments shall not entitle the Client to treat the Contract as a whole as repudiated.

7. RISK AND PROPERTY

- 7.1. Risk of damage to or loss of the Materials shall pass to the Client on delivery to the Client:
- 7.2. Notwithstanding delivery and the passing of risk in the Materials, or any other provision of these Conditions, the property in the

Materials shall not pass to the Client until the Service Provider has received in cash or cleared funds payment in full of the charge for the Services and all other services agreed to be sold by the Service Provider to the Client for which payment is then due.

- 7.3. Until such time as the property in the Materials passes to the Client, the Client shall hold the Materials as the Service Provider's fiduciary agent and bailee, and shall keep the Materials separate from those of the Client and third parties and properly stored, protected and insured and identified as the Service Provider's property.
- 7.4. Until such time as the property in the Materials passes to the Client the Service Provider shall be entitled at any time to require the Client to deliver up the Materials to the Service Provider and, if the Client fails to do so forthwith, to enter upon any premises of the Client or any third party where the Materials are stored and repossess the Materials.

8. WARRANTIES AND LIABILITY

- 8.1. Subject as expressly provided in these Conditions, and except where the Services are performed for a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1988), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.2. Except in respect of death or personal injury caused by the Service Provider's negligence, the Service Provider shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Service Provider, its employees or agents or otherwise) which arise out of or in connection with the provision of the Services to the Client, and the entire liability of the Service Provider under or in connection with the Contract shall not exceed the price of the Services, except as expressly provided in these Conditions.
- 8.3. Without prejudice to the generality of clause 8.2 of these Conditions the Client acknowledges that no guarantee of accuracy or fitness for purpose is given in respect of information provided and that the Service Provider accepts no responsibility for any loss, damage, costs or expenses incurred by the client and arising from any course of action adopted by the Client pursuant to such information.

- 8.4. The Service Provider shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Service Provider's obligations in relation to the Services, if the delay or failure was due to any cause beyond the Service Provider's reasonable control, including, but not limited to the failure of any hardware, software or other equipment supplied by third parties other than the Service Provider.

9. INTELLECTUAL PROPERTY

- 9.1. Unless otherwise agreed in writing all Intellectual Property Rights and Know How shall be vested in the Service Provider. The Client will at the Service Provider's request take all such steps as the Service Provider may reasonably require to vest such Intellectual Property Rights and Know How in the Service Provider.
- 9.2. Where the Service Provider agrees to transfer, assign or licence any Intellectual Property Rights and/or Know-How to the Client such transfer, assignment or licence shall not be deemed effective until payment in full has been received by the Service Provider in respect of such transfer, assignment or licence.
- 9.3. Where the Client has supplied any specification, design, equipment or instruction the Client agrees to indemnify and keep indemnified the Service Provider against all demands, claims, damages, charges, liability, costs and expenses which may be incurred or sustained by the Service Provider by reason of or arising out of any third party claims or rights or otherwise howsoever in respect of any Services or any products manufactured as a result of the Services supplied in accordance therewith and whether relating to the infringement or the alleged infringement of a patent, copyright, registered design, unregistered design right or other protected industrial property right or otherwise howsoever.
- 9.4. The Client undertakes that it shall not and shall procure that its customers will not:
- 9.4.1. cause or permit any acts or omissions which may prejudice, jeopardise or endanger the Intellectual Property Rights or the Know How or the title of the Service Provider to them; or
 - 9.4.2. in any way seek to challenge the validity of the Intellectual Property Rights or the Know How or support or encourage any third party to challenge the validity of the same;

- 9.4.3. download or print off copies of material comprising or appearing on the Service Provider's Web-site without the prior written consent of the Service Provider;
- 9.4.4. copy, modify, decompile, reverse engineer or adapt any Materials provided by the Service Provider without the prior written consent of the Service Provider (except as permitted by the Copyright (Computer Programmes) Regulations 1992).

9.5. The Client shall ensure that all of its relevant employees and its customers are advised that the Intellectual Property Rights and the Know How are the absolute property of the Service Provider and shall ensure that all of its employees and its customers comply with the Conditions.

10. CONFIDENTIALITY

The Client shall and shall procure that its customers shall maintain as confidential all and any information relating to the Intellectual Property Rights and the Know How which is disclosed to it or becomes known to it as a result of the provision of the Services except where expressly authorised in writing by the Service Provider.

11. INSOLVENCY OF CLIENT

11.1. This clause applies if:

- 11.1.1. the Client makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 11.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
- 11.1.3. the Client ceases, or threatens to cease, to carry on business; or
- 11.1.4. the Service Provider reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.