

THE HONG KONG UNIVERSITY OF SCIENCE AND TECHNOLOGY

Special Terms and Conditions for Provision of Goods/Services

1. Confidentiality

- 1.1 Not at any time during or after the Term to divulge or communicate to or allow to be divulged to any person any confidential information relating to the business or finances or affairs of HKUST ("Confidential Information") whether arising out of or in connection with the Services or otherwise other than to persons who have signed a secrecy undertaking in a form approved by HKUST.
- 1.2 Not to permit any person to assist in the provision of the Services unless such person has signed such an undertaking.
- 1.3 The Contractor undertakes to procure that its agents or employees shall not disclose, exploit or use directly or indirectly Confidential Information obtained by virtue of this Contract for Services.

2. Intellectual Property

- 2.1 The Contractor warrants and represents that any work or rights conceived, originated, made or developed by him will not infringe the intellectual property rights of any third party and he agrees to indemnify HKUST against any and all liability, loss, damage, costs and expenses which the HKUST or a third party may incur or suffer whether direct or consequential (including but without limitation any economic loss or other loss of profits, business or goodwill) as a result of any dispute or contractual, tortious or other claims or proceedings brought against HKUST by a third party alleging infringement of its intellectual property rights by reason of the use or exploitation of work or the rights attached thereto.
- 2.2 Not to cause or permit anything which may damage or endanger any copyright, trademarks, patents or other intellectual property of HKUST or HKUST's title to it or assist or allow others to do so. HKUST reserves the right to take legal action against any unauthorized use of HKUST's intellectual properties, including but not limited to photos, graphics and text.
- 2.3 The Contractor shall not use, include or refer to the HKUST's name, proprietary marks, service marks, trademarks or logos, or any variation, adaptation or abbreviation thereof, whether registered, registrable or otherwise, or name of any member of staff of HKUST, for any purpose whatsoever, without the prior written consent of HKUST.

3. Indemnity

- 3.1 To indemnify and keep indemnified HKUST from and against any and all loss damage claim liability (whether criminal or civil) and expenses including legal fees and costs that may be incurred by HKUST resulting from:
 - (i) any act neglect or default of the Contractor or any of its employees or agents; or
 - (ii) any breach of this Contract for Services in respect of any matter arising from

the supply of the Services resulting in any successful claim by any third party; or

(iii) any virus, worm or other infection to and from HKUST's computer systems as a result of the work carried out by the Contractor; or

(iv) any hacking into HKUST's computer systems as a result of the work carried out by the Contractor, and any damage resulting from such hacking.

3.2 The Contractor shall not make any admission in relation to any potential claim hereunder and shall promptly notify HKUST of a claim.

4. No Assignment or Subcontracting

Not to assign or sub-contract any of its rights or duties under this Contract for Services without prior written consent from HKUST. In the event that the Contractor does employ (with HKUST's consent) agents or subcontractors who may perform any portion of the work involved, the Contractor is in no way relieved from its responsibility in part or as a whole, as provided for by the terms of this Contract for Services.

5. No Improper Payments

Not at any time during the Term in relation to the Services or any other arrangements with HKUST whether or not arising out of this Contract to offer or cause or permit to be offered in contravention of the provisions of the Prevention of Bribery Ordinance of the laws of Hong Kong ("PBO") any advantage within the meaning of PBO to any employee or officer of HKUST or to any member of any council, senate, court, board, committee or other body of HKUST.

6. Copyright

6.1 All documents, records, correspondence, equipment or other property relating to the Confidential Information and the business or affairs of HKUST kept in the possession or under the control of the Contractor and all copies thereof or extracts therefrom (in whatever form they may be kept) made by or on behalf of the Contractor are and shall remain the property of HKUST and shall be returned to HKUST upon termination of this Contract for Services for any reason.

6.2 The copyright in all work done by and in all reports prepared and submitted by the Contractor (together with the source code) pursuant to this Contract for Services shall remain the sole and exclusive property of HKUST. The Contractor hereby assigns and agrees to assign to HKUST all of the Contractor's rights to and interests of such work including source code, information, inventions, systems, programs and related documentation including improvements and modifications thereto, and other works of authorship made, developed, written or conceived by the Contractor during his appointment hereunder and HKUST shall have the sole right to use publish and turn to account the results of all such work.

7. Work and Reports

7.1 To carry out all work in relation to the Services with all due speed utmost care and skill and to the highest industry standards and in compliance with the requirements of all relevant ordinances and another regulations which may from time to time be in force and to permit

HKUST to attend at the premises of the Contractor and inspect progress from time to time at reasonable interval.

- 7.2 The Contractor shall use all reasonable endeavours to complete the work in relation to the Services by the relevant dates as agreed between HKUST and the Contractor.
- 7.3 To prepare and submit to HKUST full reports (including interim reports where required by HKUST) of the results of all work carried out pursuant to this Contract for Services with all due speed in such form or manner and in such detail as is necessary in order to meet the requirements of HKUST.

8. Termination

- 8.1 HKUST shall have the right to terminate the Contract due to unsatisfactory performance or breach of Contract by the Contractor. In this connection, HKUST may appoint another service provider to complete the Contract and all reasonable costs so incurred shall be payable by the Contractor.
- 8.2 HKUST and the Contractor may terminate the Contract for any other reasons by giving not less than one month's notice in writing to the other party.
- 8.3 The Contractor shall act in the best interest of HKUST. Should the Contractor act for two or more clients requiring similar service which may give rise to a perceived and/or actual conflict, the Contractor is not permitted to act for both / all of its clients concerned even if the clients agree. For example, a conflict of interest will be deemed to have arisen if a retainer is appointed by two or more clients in the search of a similar post at a very close timeframe. In such cases, the client may cancel such search at its sole discretion and the retainer shall have no claim against the client for any costs or damages whatsoever arising thereof.

9. Non-Exclusive Contract

HKUST reserves the right, notwithstanding the conclusion of a contract between HKUST and the Contractor, to call for quotation from and enter into an agreement or contract with other vendors in respect of the provision of the Services.

10. Corrupt Gifts

If the Contractor shall be found to have offered or given any gratuity, bonus, discount, bribe, loan or any other gift or consideration as an inducement or reward to any employee of HKUST in relation to this or any other Contract, HKUST shall be at liberty forthwith to cancel this Contract and shall hold the Contractor liable for any loss or damage which HKUST may thereby sustain. The Contractor is also reminded that under the Prevention of Bribery Ordinance of Hong Kong, it is an offense to offer any advantage to an employee of HKUST as an inducement to or reward for giving assistance or using influence in the promotion, execution or procuring of any contract with HKUST.