

TERMS AND CONDITIONS FOR NON-CREDIT BEARING SHORT COURSES

These Terms and Conditions (together with the documents referred to in them) shall apply to all non-credit bearing short courses purchased via the on-line short course booking process on our web site at www.bcu.ac.uk.

Please read them carefully and make sure you understand them before you make any purchase. We strongly advise you to print off a copy of these Terms and Conditions or save them to your computer for your future reference.

1 DEFINITIONS

In these Terms and Conditions, the following defined terms shall have the following meanings:

- "**Contract**" means the contract between you and us for the supply by us of a place on a Course in accordance with these Terms and Conditions;
- "**Course**" means a non-credit bearing short course advertised on our web site to which these Terms and Conditions apply and as further detailed in any Course information provided;
- "**Course Description**" means the description and other details of a Course as published on our web site (or any other information provided to you) from time to time;
- "**Course Materials**" means any materials relating to a Course which we provide to individuals on a Course (including, where applicable, your Delegate);
- "**Delegate**" (where applicable) means an individual for whom you book a place on a Course, such as a child under 16 or a member of staff from your company or organisation;
- "**we**" (and "**us**" and "**our**") are references to us, Birmingham City University of University House, 15 Bartholomew Row, Birmingham, B5 5JU, United Kingdom;
- "**you**" (and "**your**" and "**yourself**") are references to the individual, company or other organisation with whom we enter into a Contract, as determined in accordance with **conditions 2 and 3**.

2 HOW AND WHEN THE CONTRACT IS FORMED

- 2.1 After you make your booking request you will receive an e-mail from us acknowledging that we have received your booking request and confirming that your request has been accepted ("**Booking Confirmation**"), subject to these Terms and Conditions, which include our right to cancel the Contract in specified circumstances. Our Contract with you shall come into existence when the Booking Confirmation is sent out.
- 2.2 These Terms and Conditions, and any Contract between you and us, are only in the English language.

3 WHO THE CONTRACT IS BETWEEN

- 3.1 The individual who makes the booking request may be asked during the booking process if s/he is booking on behalf of a company or other organisation. If the individual answers this question in the negative, our Contract will be with that individual personally.

If the individual answers this question in the affirmative, our Contract will (except for as set out in **condition 3.2**) be with the company or other organisation named by that individual during the booking process (in which case the individual will be that company or other organisation's Delegate).

- 3.2 An individual who states that s/he is booking on behalf of a company or other organisation shall be deemed to be confirming that s/he is duly authorised to make the booking. If for whatever reason s/he is not so authorised or if that company or other organisation cannot be identified by us as a valid legal entity, our Contract will be with that individual personally and that individual shall be deemed to have agreed to compensate us and keep us fully compensated for any claims, costs, losses, damages and expenses (including reasonable legal costs) which we incur as a result.
- 3.3 Where an individual is making a booking on behalf of a child under the age of 16, s/he will be given the opportunity to provide the name and other relevant details of the child during the booking process. In these circumstances, our Contract will still be with the individual making the booking (or, as applicable, with the named company or other organisation), in which case the child will be the individual's (or, as applicable, the named company or other organisation's) Delegate.
- 3.4 An individual who makes a booking request, whether for himself/herself personally or on behalf of a company or other organisation or on behalf of a child under the age of 16, shall be deemed to be confirming that s/he is at least 18 years old.
- 3.5 In certain circumstances your Contract may be with one of our subsidiary companies rather than with us. If your Contract is with one of our subsidiary companies, this will be indicated in the Booking Confirmation. If no such indication is given, your Contract will be with us (Birmingham City University). In the event that your Contract is with one of our subsidiary companies, certain details of the subsidiary company (such as company name, company number, registered office, trading office (if different) and VAT number) will be set out in the Booking Confirmation. If your Contract is with one of our subsidiary companies, references in these Terms to "us", "we" and "our" shall be construed where applicable as referring to the relevant subsidiary company.

4 OUR COURSES

- 4.1 The content and objectives of each Course are as described in its Course Description. It is your responsibility to ensure that the content and objectives of the Course are appropriate to your requirements and that you (or, if applicable, your Delegate) have attained any qualification or standard which has been specified by us as a recommendation or requirement for participants.
- 4.2 We shall provide each Course with reasonable care and skill. We will use reasonable endeavours to provide presenters who are suitably qualified and experienced in the subject matter of the Course. We will also use reasonable endeavours to ensure that the Course is presented in a competent and professional manner and that its content is appropriate to the objectives specified.
- 4.3 Unless otherwise agreed with us in writing, all facilities, amenities and equipment made available by us for a Course are made available only for the purposes of and for the duration of that Course, and must be used strictly in accordance with our instructions (including, as applicable, those of our Course director and/or presenters) from time to time.
- 4.4 We reserve the right at any time to make changes to:

- 4.4.1 the advertised content or structure of a Course;
 - 4.4.2 the advertised venue of a Course;
 - 4.4.3 the advertised timings of a Course; and/or
 - 4.4.4 the advertised Course director and/or Course presenters.
- 4.5 In the event of any changes made pursuant to **condition 4.4**, we will endeavour to notify you as soon as is reasonably practical.
- 4.6 Unless stated otherwise, all Courses are taught in English.

5 PAYMENT

- 5.1 The price payable by you for the place you book on a Course is (except in the case of error on our part) as set out on the relevant page(s) of our web site at the time you make your booking request. We take all reasonable care to ensure that this price is correct at the time when the relevant information was entered onto the web site. However, **please see condition 5.2 for what happens if we discover an error after you receive your Booking Confirmation from us.**
- 5.2 If we discover an error in a price after you have received your Booking Confirmation, we will contact you to inform you of this error and notify you of the correct price for the Course. We will then give you the option of either paying us the difference between your original payment and the correct price and continuing with the Contract or cancelling the Contract and receiving, in accordance with **condition 7.9**, a full refund of the sum paid to us under the Contract. If we are unable to contact you using the contact details you provided during the booking process, we will treat the Contract as cancelled, notify you in writing and refund you the full amount paid to us under the Contract as soon as possible in accordance with **condition 7.9. Please note that we do not have to provide the relevant place on the Course at the incorrect (lower) price.**
- 5.3 The price of a place on a Course includes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being.
- 5.4 Discounts may be available for certain categories of individual on certain Courses, for example for our current staff and students. During the booking process you will, where applicable, be given an opportunity to claim a discount. If we subsequently become aware that you have incorrectly claimed a discount, we will contact you and give you the opportunity to pay us the difference between the full price and the discounted price that you actually paid. If you do not pay the difference before the start of the Course, you (or, as applicable, your Delegate) will not be allowed to attend the Course and we will treat you as having cancelled your booking. In these circumstances, no refund will be paid other than in the circumstances of **conditions 7.1 to 7.6** (if you are a Consumer, as defined in **condition 7.1**) or **condition 7.8**.
- 5.5 We accept no liability if your payment is refused or declined for any reason. We are also under no obligation to bring any fact to your attention. You should check with your payment provider that payment has been deducted successfully from your account.

6 COPYRIGHT

- 6.1 Course Materials are provided for the personal use only of the individuals attending the Course. All copyright and other intellectual property rights in the Course Materials shall

remain the property of us (or our licensors) and no assignment or licences of such intellectual property rights are granted under any Contract (or otherwise). Course Materials may not be copied or reproduced, either in whole or in part, without our prior written permission.

7 CANCELLATION BY YOU

- 7.1 If you are an individual booking a Course for purposes which are wholly or mainly outside your trade, business, craft or profession (a "**Consumer**"), you have a legal right to cancel a Contract during the cancellation period set out below in **condition 7.2** (except in certain circumstances of **condition 7.5**). This means that if during the relevant period you change your mind or decide for any other reason that you do not want to take up the place you have booked on a Course, you can inform us of your decision to cancel the Contract and receive a full refund (except in the circumstances of **condition 7.5**).
- 7.2 Your legal right to cancel a Contract starts from the date of the Booking Confirmation (the date on which we e-mail you to confirm the acceptance of your booking request), which is when the Contract with you comes into existence. Your legal right to cancel the Contract ends at the end of fourteen (14) days after the date on which the Contract comes into existence (except in certain circumstances of **condition 7.5**).
- 7.3 To cancel a Contract, you just need to let us know that you have decided to cancel by way of a clear statement, preferably in writing, which may be sent by any convenient method, including e-mail. A template cancellation form is found at the bottom of these Terms and Conditions. You may use this cancellation form if you wish but you may also inform us of your cancellation by other means, as long as your cancellation is clearly stated.
- 7.4 If you cancel your Contract within the relevant cancellation period in accordance with **conditions 7.1 to 7.3**, we will refund to you the full price you paid for the Course (except in the circumstances of **condition 7.5**).
- 7.5 If a Course begins before the end of the cancellation period referred to in **condition 7.2**, you may lose your right to cancel the Contract and your right to receive a full refund of the price you paid for the Course. Alternatively, if you do still have the right to cancel and choose to exercise this right, you may only be entitled to a partial refund of the price you paid for the Course. For this reason, we are only allowed by law to begin to provide the Course to you before the end of the cancellation period if you make an express request for us to do so. Accordingly, your booking request and your (or, as applicable, your Delegate's) attendance on the Course will be deemed to be an express request for us to (where applicable) begin to provide the Course before the end of the cancellation period. In these circumstances, as long as you do not inform us (during the cancellation period) of your wish to cancel before the Course is fully provided, you will lose your legal right of cancellation (and your right to any refund) if the Course has been fully provided during the cancellation period. Your completion of your booking request and your (or, as applicable, your Delegate's) attendance on the Course will be deemed by us to be an acknowledgement that you will lose these rights. If, however, you request that the Course starts before the expiry of the cancellation period referred to in **condition 7.2** but the Course has not been fully provided by the time (during the cancellation period) that you inform us of your decision to cancel, you will still have the right to cancel but you will not be entitled to a full refund of the price you paid for the Course. We will instead refund to you the price you paid for the Course LESS an appropriate pro rata amount in respect of the part of the Course that has already been provided.

- 7.6 We will make any refund due to you under **conditions 7.1 to 7.5** as soon as possible and in any event within fourteen (14) days after you inform us of your decision to cancel the Contract.
- 7.7 Other than in the circumstances of **conditions 7.1 to 7.6** (if you are a Consumer), or in the limited circumstances of **condition 7.8**, no refunds will be paid if you want to cancel a booking for a Course once the Contract has come into existence, or in the event of a "no show" on your (or your Delegate's) part.
- 7.8 Notwithstanding **condition 7.7**, we may agree to make a refund, in whole or in part, in exceptional circumstances, such as where serious illness or a death in the immediate family would realistically prevent your (or, as applicable, your Delegate's) attendance on a Course. If you wish to cancel a booking and ask for a refund in these circumstances, you must do so in writing and provide written evidence of the relevant circumstances. The decision on whether the circumstances are sufficiently exceptional to justify us making a refund shall be made by us at our sole discretion.
- 7.9 Any refunds (whether under this **condition 7** or otherwise) will be made only to the credit or debit card used to pay for the Course.

8 CANCELLATION BY US

- 8.1 We reserve the right to postpone or cancel any Course for any reason including if the Course is full, if there are insufficient people booked onto a Course, or, if an incorrect price has been allocated to a Course as referred to in **condition 5.2** above, in whole or in part, without any obligation or liability to you other than as set out in this **condition 8.1** or **condition 5.2**, as applicable. With the exception of a cancellation due to an incorrect price which will be actioned in accordance with **condition 5.2**, in the event of such a postponement or cancellation, we will inform you of this by email and we will endeavour to give you as much notice as is reasonably practicable. We will also refund in full any payment received from you in respect of the Course or cancelled or postponed part of the Course (as the case may be).
- 8.2 We also reserve the right to cancel or make changes to your booking for a Course and to terminate our Contract with you without any liability to you if you are in breach of any of these Terms and Conditions (which includes, but is not limited to, any failure to make any payment due). In the event of such cancellation, we reserve the right to retain from any charges you have paid to us for the Course any losses and costs we suffer which were reasonably foreseeable to both you and us when the contract was entered into.

9 OUR LIABILITY TO YOU IF YOU ARE A CONSUMER

This condition 9 only applies if you are a Consumer (as defined in condition 7.1)

- 9.1 If we fail to comply with these Terms and Conditions, we are only responsible for loss or damage you suffer that is a foreseeable result of our breach of these Terms and Conditions or our negligence. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into the Contract.
- 9.2 We only supply the Course to you as a Consumer for purposes which are wholly or mainly outside your trade, business, craft or profession. Accordingly, we have no liability to you for (amongst other things) any loss of profit, loss of business, business interruption, or loss of business opportunity.

- 9.3 We do not in any way exclude or limit our liability for:
- 9.3.1 death or personal injury caused by our negligence;
 - 9.3.2 fraud or fraudulent misrepresentation; or
 - 9.3.3 any matter for which it would be illegal or unlawful for us to exclude or limit our liability.

10 OUR LIABILITY TO YOU IF YOU ARE NOT A CONSUMER

This condition 10 only applies if you are not a Consumer (as defined in condition 7.1)

- 10.1 Nothing in these Terms and Conditions excludes or limits our liability for death or personal injury caused by our negligence, or for fraud or fraudulent misrepresentation, or for any matter for which it would be illegal or unlawful for us to exclude or limit our liability.
- 10.2 Subject to **condition 10.1**, we will under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- 10.2.1 any loss of profits, sales, business, or revenue;
 - 10.2.2 loss or corruption of data, information or software;
 - 10.2.3 loss of business opportunity;
 - 10.2.4 loss of anticipated savings;
 - 10.2.5 loss of goodwill; or
 - 10.2.6 any indirect or consequential loss.
- 10.3 Subject to **conditions 10.1 and 10.2**, our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount payable to us by you under the Contract.
- 10.4 Except as expressly stated in these Terms and Conditions, we do not give any representation, warranties or undertakings in relation to the Courses. Any representation, condition or warranty which might be implied or incorporated into these Terms and Conditions by statute, common law or otherwise is excluded to the fullest extent permitted by law.

11 EVENTS BEYOND OUR REASONABLE CONTROL

- 11.1 We shall not be, or deemed to be, in breach of the Contract for any delay or failure in performance, in whole or in part, if such delay or non-performance is due to an Event Outside Our Control (as defined in **condition 11.2**)
- 11.2 An Event Outside Our Control means any act or event beyond our reasonable control, including without limitation any of the following: (i) acts of God, flood, earthquake, windstorm, epidemic, pandemic, national emergency or other natural disaster, (ii) terrorist attack, civil war, civil commotion, student sit-ins or riots, (iii) any law or governmental order, rule, regulation or direction, or any action taken by a government or local or public authority, (iv) fire, explosion or accidental damage, (v) adverse weather conditions, (vi) any labour dispute, including strikes, industrial action or lockouts by University staff or third parties, (vii) non-performance by suppliers or subcontractors, (viii) postponement or cancellation of conferences or other events, (ix) damage to buildings or equipment, (x) collapse of building structures, failure of plant machinery, machinery, equipment, computers or vehicles, (xi) interruption or failure of utility service, including electric power, gas or water, or of public or private telecommunications networks, (xii) the unanticipated departure or absence of key members of University staff and (xiii) where the numbers recruited to a course are so low that it is not possible to deliver an appropriate quality of education for students enrolled on it.
- 11.3 If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:
- 11.3.1 we will contact you as soon as reasonably practical to notify you (in accordance with **condition 13**);
- 11.3.2 our obligations under the Contract will be suspended and the time for performance of those obligations will be extended for the duration of the Event Outside Our Control; and
- 11.3.3 where the Event Outside Our Control affects our delivery of a Course for you, we reserve the right to terminate the Contract, whereupon our sole liability will be to refund any payment received from you in respect of the Course (in full, if the Course has not been delivered for you at all; and on an appropriate pro-rata basis, if the Course has already been delivered in part).

12 CONDUCT

- 12.1 You must comply with, and where applicable you must make sure that your Delegate complies with, all of our rules and regulations applicable to the Course, including without limitation those relating to health, safety, welfare and security. If the Course is being provided at a third party venue, you must also comply with, and where applicable you must make sure that your Delegate complies with, all of the venue's rules and regulations relating to health, safety, welfare and security.
- 12.2 You must also comply with, and where applicable you must make sure that your Delegate complies with, all of our additional reasonable instructions relating to the Course (including, as applicable, those of our Course director and/or presenters).
- 12.3 As an attendee at one of our Courses, you (or, if applicable, your Delegate) must also comply with, and will be bound by, our institutional policies, procedures and regulations (UPRs) in force from time to time (as applicable). The current version of these can be found [here](#).

13 COMMUNICATIONS BETWEEN YOU AND US

- 13.1 To contact us for matters not related to a particular Course, please see our Contact details page [here](#). To contact us for matters relating to a particular Course, including because you have any complaints, please use the relevant contact details provided on our web site for that Course or as provided to you in email confirmation (without limiting your right, where applicable, to cancel your Contract by other means in accordance with **condition 7.3**). We may send written communications to you relating to the Course by post or by e-mail to either the e-mail or postal address you give us when making your booking.

14 DATA PROTECTION AND HOW BCU MAY USE YOUR PERSONAL INFORMATION

Data Protection

- 14.1 We will comply with our obligations under the Data Protection Legislation. Full details of how we will use, process, transfer and/or store your personal data is set out in the BCU [Privacy Policy](#). For the purposes of these Terms and Conditions “Data Protection Legislation” is defined as the Data Protection Act 2018; the UK General Data Protection Regulations and all applicable data protection and privacy legislation in force from time to time in the UK which apply to a party relating to the use of personal data (including, without limitation, in relation to the privacy of electronic communications) as amended and the guidance and codes of practice issued by the Information Commissioners Office applicable to a party as amended or replaced from time to time.
- 14.2 We will use the personal information you provide to us to process your booking and to administer the Course. We will retain all documents we receive in connection with the Course along with any other information you have provided to us in accordance with our [Data Protection Policy](#) and any relevant retention policy.
- 14.3 We will use and store cookies as set out [here](#).

Freedom of Information

- 14.4 You acknowledge and accept that we may be required under the Freedom of Information Act 2000 (“**FOIA**”) and Environmental Information Regulations 2004 (“**EIRs**”) (together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations) to disclose Information (including confidential information and/or personal data) without consulting or obtaining your prior consent. We shall take reasonable steps to notify you of a Request For Information (in accordance with the Secretary of State’s section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) we alone shall be responsible for determining in our absolute discretion whether any confidential information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

15 OTHER IMPORTANT TERMS

Website Terms

- 15.1 You will comply with our website terms and conditions found [here](#) at all times. Failure to comply with these terms may be deemed a breach of contract, as set out in Clause 8.2.

Amendments

- 15.2 We may amend these Terms and Conditions from time to time. Every time you wish to enter into a Contract please check the current version of the Terms and Conditions, to ensure that you understand the terms and condition which will apply at that time, as these may have changed from a previous version you have read. No other variations to this Contract will be effective unless agreed in writing by an authorised representative of the University.

Assignment & Sub-contracting

- 15.3 We may at any time transfer and/or subcontract our rights and obligations under the Contract to another organisation but this will not affect your rights or our obligations under the Contract. You may only transfer your rights or your obligations under the Contract to another person if we agree in writing. Please note therefore that our prior agreement is needed if you want to replace the individual for whom you have booked a place on a Course with someone else.

Severance

- 15.4 Each condition and sub-condition of these Terms and Conditions operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.

Waiver

- 15.5 If we fail to insist that you perform any of your obligations under these Terms and Conditions, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

Third Party Rights

- 15.6 The Contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

Cumulative Rights

- 15.7 The rights of either party under this Contract are in addition to, and not exhaustive of, any rights or remedies provided by common law.

Notices

- 15.8 Any notice or other communication given to a party under or in connection with this Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post

or other next working day delivery service by email to the address specified by your course administrator.

15.9 A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second (2nd) working day after posting; if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this **condition 15.8**, business hours means 9.00am to 5.00pm on a working day.

15.10 This condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

Disputes

15.11 In the event of a dispute between us relating to any aspect of the Contract we will liaise with each other in an attempt to resolve the matter amicably. Initial communications should be sent to the relevant course tutor. If the matter has not been resolved within thirty (30) days from receipt the matter will be escalated to the head of department (or head of faculty where relevant).

Governing Law & Jurisdiction

15.12 The Contract (including any non-contractual disputes or claims relating to the Contract) shall be governed by and construed in accordance with English law and is subject to the non-exclusive jurisdiction of the English courts.

FOR CONSUMERS ONLY

(as defined in clause 7.1)

MODEL CANCELLATION FORM

(Complete and return this form only if you wish to withdraw from the contract)

To [***]

I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract for the supply of the following service [*],

Ordered on [*/received on [*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),
Date