

AGREEMENT TO SUPPLY GOODS OR SERVICES



Delib Limited

Correspondence address:

35 King St
Bristol
BS1 4DZ
UK

undertakes to supply
goods or services (as
outlined) below to:

'the supplier'

Government of British Columbia

617 Government Street
Victoria
British Columbia
V8V 9V1
Canada

'the client'

Date: 15 November 2011

Job Name / Number: Advanced Budget Simulator Licence

Delib contact for this job:

Name: Rowena Farr

Phone #: 0845 638 1848

Email: rowena@delib.co.uk

Responsibility: Account Manager

Client contact for this job:

Name: David Hume

Phone #: 01 250 589 9043

Email: David.Hume@gov.bc.ca

Responsibility: Executive Director, Citizen Engagement

Deliverables & Payment terms

Advanced Budget Simulator Yearly Licence

4 Days of Customisation Work

YouGov Post Consultation Report

Off-Line Paper Simulator

Total (ex VAT):

\$ 18,630

Billing schedule:

100% on
commencement

s.21



Errors and Omissions Excepted. This estimate is valid for 30 days from the date indicated above.

Sign to complete agreement and indicate acceptance of Delib's standard terms of trade.

Signed on behalf of Delib Limited:

Signed for and on behalf of the client:

Print name:

Print name:

Position:

Position:

Date:

Date:

**STANDARD TERMS AND CONDITIONS
FOR SUPPLY OF SERVICES**

OF

Delib

1 INTERPRETATION

In this document the following words shall have the following meanings;

- 1.1.1 "Agreement" means these Terms and Conditions together with the terms of any applicable Job Agreement Document.
- 1.1.2 "Customer Materials" means all documents, information and materials provided by the Customer which existed prior to the commencement of the relevant contract between the Customer and the Supplier, whether or not containing Intellectual Property Rights belonging to the Customer.
- 1.1.3 "Customer" means the organisation or person who purchases services from the Supplier;
- 1.1.4 "Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
- 1.1.5 "Job Agreement" means a document entitled "Job Agreement issued by the Supplier which describes the services to be provided by the Supplier;
- 1.1.6 "Supplier" means Delib Limited (company number 5158056), registered in England at 35 King Street, Bristol, BS1 4DZ.
- 1.1.7 a reference to "written" or "writing" includes faxes and emails.
- 1.2 In the event of any conflicts between a Job Agreement and these terms and conditions a Job Agreement shall take precedence.

2 GENERAL

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of services by the Supplier to the Customer, and shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or Job Agreement or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.
- 2.2 Before the commencement of the services the Supplier shall submit to the Customer a Job Agreement which shall specify the services to be performed and the fees payable. The Customer shall notify the Supplier immediately if the Customer does not agree with the contents of the Job Agreement.
- 2.3 Each Job Agreement shall constitute a separate agreement between the Customer and the Supplier on the terms of these Terms and Conditions.
- 2.4 The Supplier shall use its reasonable endeavours to complete the services within estimated time frames but time shall not be of the essence in the performance of any services.

3 FEES AND PAYMENT

- 3.1 The fees for the performance of the services are as set out in the Job Agreement. Unless specified otherwise in the Job Agreement, the Supplier may invoice the Customer for the services at any time after services have been commenced. Where payment has been agreed on completion of the work set out in the Job Agreement, the Supplier shall be entitled to invoice the Customer once the work set out in the Job Agreement has been delivered,
- 3.2 Invoiced amounts shall be due and payable within 30 days of delivery of the invoice.

- 3.3 The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 8% per annum above the base rate of the Bank of England.
- 3.4 In the event that the Customer's procedures require that an invoice be submitted against a purchase order to payment, the Customer shall be responsible for issuing such purchase order before the services are rendered.
- 3.5 Any prices referred to are exclusive of VAT unless otherwise stated, and the Supplier shall add VAT at the applicable rate.

4 CUSTOMER'S OBLIGATIONS

- 4.1 To enable the Supplier to perform its obligations under this Agreement the Customer shall:
- 4.1.1 co-operate with the Supplier's reasonable directions and requests;
 - 4.1.2 provide the Supplier with any information reasonably required by the Supplier;
 - 4.1.3 obtain all necessary permissions and consents which may be required before the commencement of the services; and
 - 4.1.4 comply with such other requirements as may be set out in the Job Agreement or otherwise agreed between the parties.
- 4.2 The Customer shall be liable to compensate the Supplier for any expenses incurred by the Supplier as a result of the Customer's failure to comply with Clause 4.1.
- 4.3 Without prejudice to any other rights to which the Supplier may be entitled, in the event that the Customer terminates or cancels the services under a particular Job Agreement pursuant to clause 9.2, or the Supplier terminates pursuant to clause 9.1, the Customer shall pay to the Supplier as agreed damages and not as a penalty:
- 4.3.1 the full amount of any third party costs to which the Supplier has committed (whether such third party cost was noted in the Job Agreement or not); and
 - 4.3.2 the value of any work undertaken by the Supplier up to and including the date of termination by the Customer, calculated on the basis of the Supplier's usual daily rate of ^{f\$}21 plus VAT. The Supplier shall give the Customer an estimate of such costs if asked by the Customer before notice of termination is served.
- 4.4 The Customer agrees that clause 4.3 represents a genuine pre-estimate of the Supplier's losses in the event of a relevant breach by the Customer.
- 4.5 For the avoidance of doubt, the Customer's failure to comply with any obligations under Clause 4.1 shall be a breach capable of remedy for the purposes of clause 9.1.2 and if the Customer does not remedy the breach within 14 days of notice the Supplier shall be entitled to terminate the services and claim the damages set out in clause 4.3.
- 4.6 In the event that the Customer (or any third party other than a sub-contractor of the Supplier), shall do or fail to do anything (including but not limited to the dependencies limited in the Job Agreement) which prevents or delays the Supplier from undertaking or complying with any of its obligations under this Agreement, then the Supplier shall notify the Customer as soon as possible and:
- 4.6.1 the Supplier shall have no liability in respect of any delay to the completion of any project;
 - 4.6.2 if applicable, the timetable for the project will be modified accordingly;
 - 4.6.3 the Supplier shall notify the Customer at the same time if it intends to make any claim for additional costs, and such notification shall act as a binding amendment to the relevant Job Agreement.

5 ALTERATIONS TO THE JOB AGREEMENT

- 5.1 The parties may at any time mutually agree upon revisions to a Job Agreement. Any alterations in the scope of services to be provided under this Agreement shall be set out in the Job Agreement which shall reflect the changed services and fees and any other terms agreed between the parties. Anything which is not con-

tained in a Job Agreement or these terms and conditions shall not form part of the agreement between the parties and shall not be binding.

- 5.2 The Customer may at any time request alterations to the Job Agreement by notice in writing to the Supplier. On receipt of the request for alterations the Supplier shall advise the Customer by notice in writing of the effect of such alterations on the fees (if any) and on any other terms already agreed between the parties.
- 5.3 Where the Supplier gives written notice to the Customer agreeing to perform any alterations on terms different to those already agreed between the parties, the Customer shall, advise the Supplier by notice in writing whether or not it wishes the alterations to proceed.
- 5.4 Where the Supplier gives written notice to the Customer agreeing to perform alterations on terms different to those already agreed between the parties, and the Customer confirms in writing that it wishes the alterations to proceed on those terms, the Job Agreement shall be amended to reflect such alterations and thereafter the Supplier shall perform this Agreement upon the basis of such amended Job Agreement.

6 WARRANTY

- 6.1 The Supplier warrants that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.
- 6.2 Without prejudice to Clause 6.1, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by the Supplier.
- 6.3 The Supplier warrants to the Customer that, for a period of 30 days after completion of the work listed in the Job Agreement, any of the Supplier's deliverables shall continue to comply with the Job Agreement, and the Supplier shall use its reasonable endeavours to repair any faults, errors or non-compliance at the Supplier's own cost. After such time:
- 6.3.1 the Supplier shall use its reasonable endeavours to correct the fault, error or non-compliance and the Customer shall pay the Supplier's usual daily rate for the Supplier doing so; and
- 6.3.2 the Supplier shall have no further liability to the Customer for any faults or errors or the failure of any deliverables to comply with the Job Agreement.

7 CUSTOMER MATERIALS

- 7.1 If the Customer requests the Supplier to use any Customer Materials then the Customer warrants to the Supplier that such Materials do not infringe the Intellectual Property Rights of any third party.
- 7.2 The Customer shall compensate the Supplier on a pound for pound basis against all damages, losses costs (including legal costs) and expenses arising as a result of (i) any action or claim that such Customer Materials infringe any third party's Intellectual Property Rights and (ii) any actions taken by the Supplier to remove of the infringing Materials.

8 LIMITATION OF LIABILITY

- 8.1 Nothing in these terms shall limit the Supplier's liability for death or personal injury due to negligence, or for fraud
- 8.2 Subject to clause 8.1, the entire liability of the Supplier to the Customer in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the amount of fees paid by the Customer as set out in the Job Agreement to which the claim relates.
- 8.3 In no event shall the Supplier be liable to the Customer for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss.
- 8.4 Nothing in these Terms and Conditions shall exclude or limit the Supplier's liability for death or personal injury resulting from the Supplier's negligence or that of its employees, agents or sub-contractors.

9 TERMINATION

- 9.1 Either party may terminate in respect of a particular Job Agreement forthwith by notice in writing to the other if:
- 9.1.1 the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given written notice from the other party to do so;
 - 9.1.2 the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;
 - 9.1.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
 - 9.1.4 the other party ceases to carry on its business or substantially the whole of its business; or
 - 9.1.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 9.2 The Customer may terminate a particular Job Agreement at any time by giving notice to the Supplier, although the payments set out in clause 4.6 will apply.

10 INTELLECTUAL PROPERTY RIGHTS

- 10.1 Unless the Job Agreement provides otherwise, all Intellectual Property Rights produced from or arising as a result of the performance of this Agreement (with the exception of any Customer Materials) shall, so far as not already vested, become the absolute property of the Supplier, and the Customer shall do all that is reasonably necessary to ensure that such rights vest in the Supplier by the execution of appropriate instruments or the making of agreements with third parties.
- 10.2 Except as expressly provided by the Job Agreement or these terms and conditions, nothing shall be construed as granting the Customer any right, title or interest in the Supplier's Intellectual Property Rights, specifically the Supplier's contacts database and seeding technology.
- 10.3 The Customer grants to the Supplier a non-exclusive, worldwide, royalty-free license to use the Customer Materials. If the contract terminates this licence shall automatically terminate, and if the Job Agreement provides for the Supplier's services to end after a certain period, this licence shall end after such period.
- 10.4 As between the Customer and the Supplier, all Intellectual Property Rights shall be owned by the Supplier. The Supplier licenses all such rights in any deliverables to the Customer free of charge and on a non-exclusive, worldwide basis to such extent only as is necessary to enable the Customer to make use of the Services and any deliverables. If the Contract terminates, this licence shall automatically terminate.
- 10.5 Any use by the Customer of any Intellectual Property Rights other than as envisaged by and provided for in the Job Agreement shall not be covered by the licence in clause 10.4.
- 10.6 The Customer acknowledges that, where the Supplier does not own any Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.

11 FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

12 INDEPENDENT CONTRACTORS

The Supplier and the Customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. The Supplier may, in addition to its own employees, engage sub-

contractors to provide all or part of the services being provided to the Customer and such engagement shall not relieve the Supplier of its obligations under this Agreement.

13 ASSIGNMENT

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Supplier.

14 SEVERABILITY

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

15 WAIVER

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

16 NOTICES

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Job Agreement or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

17 ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

18 NO THIRD PARTIES

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

19 CONFIDENTIALITY

19.1 The Customer shall keep in strict confidence all technical or commercial know-how, Job Agreements, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain.

19.2 The Customer may disclose such information:

19.2.1 to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under the Contract; and

19.2.2 as may be required by law, court order or any governmental or regulatory authority.

19.3 The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 19.

19.4 The Customer shall not use any such information for any purpose other than to perform its obligations.

19.5 All materials, equipment and tools, drawings, Job Agreements and data supplied by the Supplier to the Customer (including Pre-existing Materials and the Supplier's Equipment) shall, at all times, be and remain as between the Supplier and the Customer the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

20 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.

FOI Request: FIN-2012-00011 BC Budget Simulator vendor

Ministry Name: As At: 2012/01/11

Client And Desc	Division (RC Level 4)	Program (RC Level 5)	GL Account	STOB L3 And Desc	STOB And Desc	Contract #	Supplier Name	PO Header Start Date	PO Header End Date	Open/Closed PO	Description	Procurement Category Description	Procurement Category Group	Procurement Process	Original Total Contract Amount. ADD DUPLICATES on each line of the PO	Amended Total Contract Amount. ADD each line together to get the total contract Amt	Expenditures to Date. ADD each line together to get the total Exp to date
022 Finance	33041 Corporate & Ministry Support Services Division	33F51 Corporate Services Other	022.32056.34083.633 0.3200000	EB63 Information Systems-Operating	6330 Software Maintenance Costs	PO12M25075	DELIB LIMITED	20111118	20120330	CLOSED	ADVANCED BUDGET SIMULATOR LISENCE AGREEMENT	Software License	GOODS	201	20,000.00	20,000.00	20,000.00

Note Only one payment made to Delib Limited in the amount of \$20,000 for this contact

FSA FOI INQUIRY - CONTRACTS DETAILS By Division-Program (Response) Run Date: 12-JAN-12 Run Time: 02:54:36 PM From Fiscal Year: 2001 To Fiscal Year: 2013 From Period Number: 1 To Period Number: 16 NOTE - multiple lines per contract because of the coding so be careful when totaling. See descriptions on column headings containing dollar amounts. ORIGINAL TOTAL CONTACT AMOUNT - is the amount that appears in the PO Header DFF and is static. It is duplicated for each line so don't double count it. AMENDED TOTAL CONTRACT AMOUNT - is the true LTD contract total for each line of the PO so you need to add them together to get the total LTD total per contract. EXPENDITURES TO DATE - is the expenditures to date against each individual line of the contract and can be added together to get the total. Total exp to date may exceed the Original Total Contract but they should not exceed the LTD contract total. INITIAL SORT OF DATA - is by Client and Desc / Division / Program / Supplier Name / Contract #

DIRECT AWARD JUSTIFICATION AND PRE-APPROVAL REQUEST

CLIFF #: s

FORM USAGE AND ROUTING:

This form must be completed by the contract manager to clearly document the justification for direct awarding a service contract and ensures compliance with government contract policy. Unless the contract is an emergency, this form must be completed and pre-approved prior to any discussions with or commitment to the vendor. Pre-approval is required by the expense authority, program assistant deputy minister and if \$25,000 or greater, the ministry executive financial officer. The original completed and signed form must be retained in the program contract file. Send completed form(s) to [FSAHELP](#) for routing and approval processing

CONTRACT INFORMATION

Ministry: Finance	Program: CAMSS - Ministry Initiative		
Contract Manager Name and Phone #: Brian Savage - Manager Governance and Strategy - Phone Number - (250)387-7888			
Legal Contractor Name: DELIB LIMITED			
Contract Value: \$20,000	Term: Nov 18/11-Mar 30/12	STOB: 6330	Contract Type: <input checked="" type="checkbox"/> New <input type="checkbox"/> Multi-year <input type="checkbox"/> Renewal

Commonly Used Contract STOBs:

- | | |
|---|---|
| <p>6001/02 - Operational - Fees/expenses for contracts that provide for a direct provision of goods or services in the delivery of government programs (e.g., project mgmt.).</p> <p>6003/04 - Regulatory - Fees/expenses for contracts that provide for a direct provision of goods or services required by statute or regulation.</p> <p>6020/21 - Education and Training - Fees/expenses for contracts that deliver training to government employees.</p> | <p>6101/02 - Advisory - Fees/expenses for contracts with the provision of advisory services to the ministry (e.g., management consulting).</p> <p>6302 - Data Operations Non-WTS - Fees/expenses for contracts that provide for a direct provision of IT related goods/services in the delivery of government programs (e.g., data processing, operating lease rentals).</p> <p>6309/10 - Data Consulting Non-WTS - Fees/expenses for consulting contracts related to information systems.</p> |
|---|---|

RATIONALE FOR ALL DIRECT AWARD CONTRACTS

- Describe the services required and provide an explanation of why you need to acquire these services.
 Delib will provide development, testing and hosting services for an on-line buget simulator to support the minister's budget consultation process.

 In addition, Delib will provide budget simulator reporting services.

 Delib is a recognized leader in buget simulation. The ministry analysis determined that Delib is in the best position to meet the needs of the ministry.
- What is the financial or other impact if this direct award is not approved and a competitive process is required?
 There would be a significant delay to the budget consultation process or the process would have to go ahead without the benefit of this technology.
- Under which Core Policy and Procedures Manual exception is this direct award request being made (see section 6.3.3)?
 Public Sector Organization Emergency
 Sole Source Confidentiality
 Sole Source - Notice of Intent No Exceptions Apply - \$25,000 or Greater
 Security, Order, etc. No Exceptions Apply - Less than \$25,000
- Explain the reasons why this contract meets the criteria of the above selection (i.e., how would a competitive process compromise government confidentiality, cause economic disaster or be contrary to the public interest)?
 Delib was the only service provider that was able to deliver an off-the-shelf product within the timelines of this project. The timeline from the identification of the need to the delivery date of the solution was not long enough for a competitive procurement process.
- Has your program used these services in the past? If yes, who was the vendor and was the opportunity competitively bid or direct awarded? Provide the most recent date and contract value.
 No
- Will this purchase obligate government to this vendor for future purchases (e.g., maintenance, licensing or continuing need)? If yes, provide details.
 No
- Were alternative vendors evaluated? If yes, who were they and why were they unacceptable? If no, why were alternatives not evaluated?
 The timelines did not allow for an exhaustive evaluation of other vendors.

ADDITIONAL RATIONALE FOR SOLE SOURCE CONTRACTS ONLY

- Why is the requested vendor the only one that can meet your requirements? Provide specific, quantifiable factors and/or qualifications and explain why they are necessary.
 Delib was the only service provider that was able to deliver an off-the-shelf product within the timelines of this project.
- What other suppliers did you consider before arriving at the conclusion that the sole source direct award criteria was met and the requested vendor was the only one that met your needs?
 Research indicated no other vendors could meet the service needs and requirements.

PRE-APPROVALS

A R T 4	Exp. Auth. Name: Philip Twyford	ADM Name: Deborah Fayad	**EFO Name:
	Signature & Date	Signature & Date	Signature & Date
	**EFO sign-off is only required if the contract is \$25,000 or greater.		

FIN FSA 052 REV APRIL 2009 This form is available on the FSA web site at <http://www.min.fin.gov.bc.ca/CAMSS/FSA/index.html>.



Delib Limited
 35 King Street
 Bristol
 BS1 4DZ
 ENGLAND

Registered Company 5158056
 VAT Reg. Number 840 7090 40

Invoice No: 45000
 Date: 12/12/2011

Invoice To:

British Columbia
 Corporate/ Ministry Support Services
 617 Government ST 3RD Floor
 PO BOX 9415 STN Prov Govt
 Victoria
 British Columbia V8W9V1
 Canada

PO Number PO12MI25075

Description	Job No	Amount Canadian Dollars
Advanced budget Simulator yearly licence		\$20,000

Code	Rate	VAT	Sale	VAT:	0
N-T				Total Amount Due	\$20,000

BACS preferred: sort 401413 acct 42158221 HSBC Corn Street Bristol
 IBAN: GB76MIDL40141342158221 SWIFT: MIDLGB42
 Registered in England & Wales | Registered Office: 35 King Street, Bristol, BS1 4DZ
www.delib.co.uk | Accounts info@delib.co.uk

Khan, Perveen FIN:EX

From: Plummer, Glen GCPE:EX
Sent: Tuesday, January 3, 2012 1:50 PM
To: Khan, Perveen FIN:EX
Cc: Savage, Brian FIN:EX; Edwardson, Jamie GCPE:EX
Subject: RE: Security details of Budget Simulator

Hi Perveen,

This approved for payment.

Thanks,

Glen Plummer
Government Communications and Public Engagement
Ministry of Finance
250 387-3514 office
250 213-5667 cell

TEAMWORK CURIOSITY PASSION SERVICE COURAGE ACCOUNTABILITY
I N T E G R I T Y

From: Khan, Perveen FIN:EX
Sent: Tuesday, January 3, 2012 8:07 AM
To: Plummer, Glen GCPE:EX
Cc: Savage, Brian FIN:EX; Edwardson, Jamie GCPE:EX
Subject: RE: Security details of Budget Simulator

Hi Glen

The invoice is for \$20K see attached and we have not paid anything as yet to Delib.

thanks

Perveen Khan

CAMSS - Divisional Operations Branch
Serving the Ministries of Finance, Labour and Citizens' Services and Office of the Premier
Phone (250) 387-8964, Fax (250) 356-7326
email: Perveen.Khan@gov.bc.ca

From: Plummer, Glen GCPE:EX
Sent: Tuesday, January 3, 2012 8:02 AM
To: Khan, Perveen FIN:EX
Cc: Savage, Brian FIN:EX; Edwardson, Jamie GCPE:EX
Subject: Re: Security details of Budget Simulator

Hi Perveen,

Is the \$18,630 the total amount we have paid/owing to Delib? Have we paid additional amounts prior to this?

Thanks
Glen Plummer
Government Communications and
Public Engagement

From: Khan, Perveen FIN:EX
Sent: Tuesday, January 03, 2012 07:49 AM
To: Plummer, Glen GCPE:EX
Cc: Savage, Brian FIN:EX
Subject: FW: Security details of Budget Simulator

Please confirm payment for the above invoice

thanks

Perveen Khan

CAMSS - Divisional Operations Branch
Serving the Ministries of Finance, Labour and Citizens' Services and Office of the Premier
Phone (250) 387-8132, Fax (250) 356-7326
email: Perveen.Khan@gov.bc.ca

From: Savage, Brian FIN:EX
Sent: Wednesday, November 16, 2011 7:09 AM
To: Khan, Perveen FIN:EX
Cc: Furmek, Tim P FIN:EX; Headen, Lorri FIN:EX; Edwardson, Jamie GCPE:EX
Subject: FW: Security details of Budget Simulator

Perveen,
If you need anything further please contact Ben directly as I will be in a all day session.

From: Ben Fowkes [<mailto:ben.fowkes@delib.co.uk>]
Sent: Tue, November 15, 2011 3:31 PM
To: Savage, Brian FIN:EX
Subject: Re: Security details of Budget Simulator

Hi Brian,

Thanks for your e-mail.

I have attached a Job Agreement and Advanced Budget Simulator Licence, which will both need to be signed off and returned. Also, I can confirm the total amount due is \$18,630 Canadian Dollars.

If you have problems please drop me an e-mail.

Regards

Ben.



Purchase Order

Your invoice, Packages and all correspondence must bear the following Document No.

ISSUED DATE: 2011/11/21	DOCUMENT NO. PO12MI25075	Revision 0	Release
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TO : DELIB LIMITED 35 KING ST BRISTOL, BS1 4DZ United Kingdom ATTENTION :	SHIP TO : Address in line reference. ATTENTION : KHAN, PERVEEN Perveen.Khan@gov.bc.ca 250-387-8964
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FOR MINISTRY OF Finance and Labour & Citizens Services	SUPPLIER NO. ^{s.17}
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INVOICE TO : CORPORATE/MINISTRY SUPPORT SER 617 GOVERNMENT ST 3RD FLR PO BOX 9415 STN PROV GOVT VICTORIA, BC V8W 9V1	ATTENTION :
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FREIGHT TERMS SHIP VIA	FOB PAYMENT TERMS 30 Days
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QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
20000 \$\$	COMMODITY : 70.7060 ^{s.21} Advanced Budget Simulator Yearly Licence Days of Customisation Work ^{s.21} YouGov Post Consultation Report ^{s.21} Off-Line Paper Simulator ^{s.21}	1.00	20,000.00

SHIP TO: CORPORATE/MINISTRY SUPPORT SER 617 GOVERNMENT ST 3RD FLR PO BOX 9415 STN PROV GOVT VICTORIA, BC V8W 9V1	REQUIRED BY DATE: 2011/11/23
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PURCHASE ORDER SUB TOTAL	20,000.00 \$ CDN
TAX	2,400.00 \$ CDN
PURCHASE ORDER TOTAL	22,400.00 \$ CDN

For The Province

Print Name : _____

Purchase Order Terms and Conditions

1. The terms and conditions contained on this Purchase Order and the ITQ (under which this Purchase Order is issued) will constitute the full and complete agreement between the parties (the "Agreement").
2. The Contractor must promptly notify the Province at the Purchasing Services as noted on the ITQ if the order cannot be filled.
3. The Province reserves the right to cancel this Agreement, if promised or specified delivery is not met or if goods or services fail to meet specification requirements. Over shipments against this order may be returned with all freight charges to the Contractor's account. Order numbers must be shown on all invoices, packing slips and packages. Shipments must be accompanied by a properly completed delivery slip.
4. The Province has the right of inspection and approval. Inspection by the Province of advance samples shall not constitute final acceptance and the Contractor will remain bound by any warranties set out in the specification requirements. No substitutions are permitted unless previously agreed to by the Province and confirmed in writing.
5. The Contractor must indemnify the Province against any claim of any person, firm, or corporation alleging that the sale by the Contractor to the Province hereunder constitutes an infringement of patent rights, copyright or any other intellectual property rights.
6. The Contractor is an independent contractor and must indemnify, protect, and save harmless the Province, its agents, employees, successors and assigns from any and all damage, liabilities and claims of whatsoever nature arising out of the furnishing by the Contractor, its agents or employees, of the materials and/or performing of the services covered by this order or incidental or ancillary thereto.
7. The Contractor must not change prices, terms or conditions without the prior written permission of the Purchasing Agent as noted on this Purchase Order.
8. The Agreement is governed by the laws of the Province of British Columbia.
9. Notwithstanding any other provision of the Agreement, the payment of money by the Province to the Contractor under the Agreement is subject to: a) there being sufficient monies available in the appropriation, as defined in the FINANCIAL ADMINISTRATION ACT RSBC 1996 Chapter 138, as amended from time to time (the "Act"), to enable the Province, in any fiscal year or part thereof when any payment of money by the Province to the Contractor falls due under this Agreement, to make that payment; and b) Treasury Board, as defined in the Act, not having controlled or limited expenditure under any appropriation referred to in subparagraph (a) of this paragraph.
10. The Contractor must not provide any goods or services to any person which in the Province's reasonable opinion could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's obligations to the Province under the Agreement.
11. Time will be of the essence in this Agreement.
12. The Contractor must comply with all applicable laws in providing the goods/services specified.
13. Payment terms are subject to the Province of British Columbia's interest on overdue accounts payable regulations.
14. The Province is dedicated to successful negotiation with the Contractors to resolve any conflict arising in the performance of this Agreement. In the event of unsuccessful informal negotiations however, the following clause applies:

All disputes rising out of or in connection with this contract, or in respect of any defined legal relationship associated therewith or derived there from, will be referred to and finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Center pursuant to its Rules of Procedure.

The place of arbitration will be Vancouver, British Columbia.

AGREEMENT TO SUPPLY GOODS OR SERVICES



Delib Limited
Correspondence address: 35 King St Bristol BS1 4DZ UK
'the supplier'

undertakes to supply goods or services (as outlined) below to:

Government of British Columbia 617 Government Street Victoria British Columbia V8V 9V1 Canada
'the client'

Date: 15 November 2011

Job Name / Number: Advanced Budget Simulator Licence

Delib contact for this job:	
Name: Rowena Farr	Phone #: 0845 638 1848
Email: rowena@delib.co.uk	Responsibility: Account Manager

Client contact for this job:	
Name: David Hume	Phone #: 01 250 589 9043
Email: David.Hume@gov.bc.ca	Responsibility: Executive Director, Citizen Engagement

Deliverables & Payment terms	
Advanced Budget Simulator Yearly Licence	<small>s.21</small>
4 Days of Customisation Work	
YouGov Post Consultation Report	
Off-Line Paper Simulator	
Total (ex VAT):	\$ 18,630
Billing schedule:	100% on commencement

Errors and Omissions Excepted. This estimate is valid for 30 days from the date indicated above.

Sign to complete agreement and indicate acceptance of Delib's standard terms of trade.

Signed on behalf of Delib Limited:
Print name:
Position:
Date:

Signed for and on behalf of the client:
Print name:
Position:
Date:

**STANDARD TERMS AND CONDITIONS
FOR SUPPLY OF SERVICES**

**OF
Delib**

1 INTERPRETATION

In this document the following words shall have the following meanings;

- 1.1.1 "Agreement" means these Terms and Conditions together with the terms of any applicable Job Agreement Document.
- 1.1.2 "Customer Materials" means all documents, information and materials provided by the Customer which existed prior to the commencement of the relevant contract between the Customer and the Supplier, whether or not containing Intellectual Property Rights belonging to the Customer.
- 1.1.3 "Customer" means the organisation or person who purchases services from the Supplier;
- 1.1.4 "Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
- 1.1.5 "Job Agreement" means a document entitled "Job Agreement issued by the Supplier which describes the services to be provided by the Supplier;
- 1.1.6 "Supplier" means Delib Limited (company number 5158056), registered in England at 35 King Street, Bristol, BS1 4DZ.
- 1.1.7 a reference to "written" or "writing" includes faxes and emails.
- 1.2 In the event of any conflicts between a Job Agreement and these terms and conditions a Job Agreement shall take precedence.

2 GENERAL

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of services by the Supplier to the Customer, and shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or Job Agreement or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.
- 2.2 Before the commencement of the services the Supplier shall submit to the Customer a Job Agreement which shall specify the services to be performed and the fees payable. The Customer shall notify the Supplier immediately if the Customer does not agree with the contents of the Job Agreement.
- 2.3 Each Job Agreement shall constitute a separate agreement between the Customer and the Supplier on the terms of these Terms and Conditions.
- 2.4 The Supplier shall use its reasonable endeavours to complete the services within estimated time frames but time shall not be of the essence in the performance of any services.

3 FEES AND PAYMENT

- 3.1 The fees for the performance of the services are as set out in the Job Agreement. Unless specified otherwise in the Job Agreement, the Supplier may invoice the Customer for the services at any time after services have been commenced. Where payment has been agreed on completion of the work set out in the Job Agreement, the Supplier shall be entitled to invoice the Customer once the work set out in the Job Agreement has been delivered,
- 3.2 Invoiced amounts shall be due and payable within 30 days of delivery of the invoice.

- 3.3 The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 8% per annum above the base rate of the Bank of England.
- 3.4 In the event that the Customer's procedures require that an invoice be submitted against a purchase order to payment, the Customer shall be responsible for issuing such purchase order before the services are rendered.
- 3.5 Any prices referred to are exclusive of VAT unless otherwise stated, and the Supplier shall add VAT at the applicable rate.

4 CUSTOMER'S OBLIGATIONS

- 4.1 To enable the Supplier to perform its obligations under this Agreement the Customer shall:
- 4.1.1 co-operate with the Supplier's reasonable directions and requests;
 - 4.1.2 provide the Supplier with any information reasonably required by the Supplier;
 - 4.1.3 obtain all necessary permissions and consents which may be required before the commencement of the services; and
 - 4.1.4 comply with such other requirements as may be set out in the Job Agreement or otherwise agreed between the parties.
- 4.2 The Customer shall be liable to compensate the Supplier for any expenses incurred by the Supplier as a result of the Customer's failure to comply with Clause 4.1.
- 4.3 Without prejudice to any other rights to which the Supplier may be entitled, in the event that the Customer terminates or cancels the services under a particular Job Agreement pursuant to clause 9.2, or the Supplier terminates pursuant to clause 9.1, the Customer shall pay to the Supplier as agreed damages and not as a penalty:
- 4.3.1 the full amount of any third party costs to which the Supplier has committed (whether such third party cost was noted in the Job Agreement or not); and
 - 4.3.2 the value of any work undertaken by the Supplier up to and including the date of termination by the Customer, calculated on the basis of the Supplier's usual daily rate of £600 plus VAT. The Supplier shall give the Customer an estimate of such costs if asked by the Customer before notice of termination is served.
- 4.4 The Customer agrees that clause 4.3 represents a genuine pre-estimates of the Supplier's losses in the event of a relevant breach by the Customer.
- 4.5 For the avoidance of doubt, the Customer's failure to comply with any obligations under Clause 4.1 shall be a breach capable of remedy for the purposes of clause 9.1.2 and if the Customer does not remedy the breach within 14 days of notice the Supplier shall be entitled to terminate the services and claim the damages set out in clause 4.3.
- 4.6 In the event that the Customer (or any third party other than a sub-contractor of the Supplier), shall do or fail to do anything (including but not limited to the dependencies limited in the Job Agreement) which prevents or delays the Supplier from undertaking or complying with any of its obligations under this Agreement, then the Supplier shall notify the Customer as soon as possible and:
- 4.6.1 the Supplier shall have no liability in respect of any delay to the completion of any project;
 - 4.6.2 if applicable, the timetable for the project will be modified accordingly;
 - 4.6.3 the Supplier shall notify the Customer at the same time if it intends to make any claim for additional costs, and such notification shall act as a binding amendment to the relevant Job Agreement.

5 ALTERATIONS TO THE JOB AGREEMENT

- 5.1 The parties may at any time mutually agree upon revisions to a Job Agreement. Any alterations in the scope of services to be provided under this Agreement shall be set out in the Job Agreement which shall reflect the changed services and fees and any other terms agreed between the parties. Anything which is not con-

tained in a Job Agreement or these terms and conditions shall not form part of the agreement between the parties and shall not be binding.

- 5.2 The Customer may at any time request alterations to the Job Agreement by notice in writing to the Supplier. On receipt of the request for alterations the Supplier shall advise the Customer by notice in writing of the effect of such alterations on the fees (if any) and on any other terms already agreed between the parties.
- 5.3 Where the Supplier gives written notice to the Customer agreeing to perform any alterations on terms different to those already agreed between the parties, the Customer shall, advise the Supplier by notice in writing whether or not it wishes the alterations to proceed.
- 5.4 Where the Supplier gives written notice to the Customer agreeing to perform alterations on terms different to those already agreed between the parties, and the Customer confirms in writing that it wishes the alterations to proceed on those terms, the Job Agreement shall be amended to reflect such alterations and thereafter the Supplier shall perform this Agreement upon the basis of such amended Job Agreement.

6 WARRANTY

- 6.1 The Supplier warrants that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.
- 6.2 Without prejudice to Clause 6.1, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by the Supplier.
- 6.3 The Supplier warrants to the Customer that, for a period of 30 days after completion of the work listed in the Job Agreement, any of the Supplier's deliverables shall continue to comply with the Job Agreement, and the Supplier shall use its reasonable endeavours to repair any faults, errors or non-compliance at the Supplier's own cost. After such time:
 - 6.3.1 the Supplier shall use its reasonable endeavours to correct the fault, error or non-compliance and the Customer shall pay the Supplier's usual daily rate for the Supplier doing so; and
 - 6.3.2 the Supplier shall have no further liability to the Customer for any faults or errors or the failure of any deliverables to comply with the Job Agreement.

7 CUSTOMER MATERIALS

- 7.1 If the Customer requests the Supplier to use any Customer Materials then the Customer warrants to the Supplier that such Materials do not infringe the Intellectual Property Rights of any third party.
- 7.2 The Customer shall compensate the Supplier on a pound for pound basis against all damages, losses costs (including legal costs) and expenses arising as a result of (i) any action or claim that such Customer Materials infringe any third party's Intellectual Property Rights and (ii) any actions taken by the Supplier to remove of the infringing Materials.

8 LIMITATION OF LIABILITY

- 8.1 Nothing in these terms shall limit the Supplier's liability for death or personal injury due to negligence, or for fraud
- 8.2 Subject to clause 8.1, the entire liability of the Supplier to the Customer in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the amount of fees paid by the Customer as set out in the Job Agreement to which the claim relates.
- 8.3 In no event shall the Supplier be liable to the Customer for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss.
- 8.4 Nothing in these Terms and Conditions shall exclude or limit the Supplier's liability for death or personal injury resulting from the Supplier's negligence or that of its employees, agents or sub-contractors.

9 TERMINATION

- 9.1 Either party may terminate in respect of a particular Job Agreement forthwith by notice in writing to the other if:
- 9.1.1 the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given written notice from the other party to do so;
 - 9.1.2 the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;
 - 9.1.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
 - 9.1.4 the other party ceases to carry on its business or substantially the whole of its business; or
 - 9.1.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 9.2 The Customer may terminate a particular Job Agreement at any time by giving notice to the Supplier, although the payments set out in clause 4.6 will apply.

10 INTELLECTUAL PROPERTY RIGHTS

- 10.1 Unless the Job Agreement provides otherwise, all Intellectual Property Rights produced from or arising as a result of the performance of this Agreement (with the exception of any Customer Materials) shall, so far as not already vested, become the absolute property of the Supplier, and the Customer shall do all that is reasonably necessary to ensure that such rights vest in the Supplier by the execution of appropriate instruments or the making of agreements with third parties.
- 10.2 Except as expressly provided by the Job Agreement or these terms and conditions, nothing shall be construed as granting the Customer any right, title or interest in the Supplier's Intellectual Property Rights, specifically the Supplier's contacts database and seeding technology.
- 10.3 The Customer grants to the Supplier a non-exclusive, worldwide, royalty-free license to use the Customer Materials. If the contract terminates this licence shall automatically terminate, and if the Job Agreement provides for the Supplier's services to end after a certain period, this licence shall end after such period.
- 10.4 As between the Customer and the Supplier, all Intellectual Property Rights shall be owned by the Supplier. The Supplier licenses all such rights in any deliverables to the Customer free of charge and on a non-exclusive, worldwide basis to such extent only as is necessary to enable the Customer to make use of the Services and any deliverables. If the Contract terminates, this licence shall automatically terminate.
- 10.5 Any use by the Customer of any Intellectual Property Rights other than as envisaged by and provided for in the Job Agreement shall not be covered by the licence in clause 10.4.
- 10.6 The Customer acknowledges that, where the Supplier does not own any Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.

11 FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

12 INDEPENDENT CONTRACTORS

The Supplier and the Customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. The Supplier may, in addition to its own employees, engage sub-

contractors to provide all or part of the services being provided to the Customer and such engagement shall not relieve the Supplier of its obligations under this Agreement.

13 ASSIGNMENT

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Supplier.

14 SEVERABILITY

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

15 WAIVER

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

16 NOTICES

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Job Agreement or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

17 ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

18 NO THIRD PARTIES

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

19 CONFIDENTIALITY

19.1 The Customer shall keep in strict confidence all technical or commercial know-how, Job Agreements, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain.

19.2 The Customer may disclose such information:

19.2.1 to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under the Contract; and

19.2.2 as may be required by law, court order or any governmental or regulatory authority.

19.3. The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 19.

19.4 The Customer shall not use any such information for any purpose other than to perform its obligations.

19.5 All materials, equipment and tools, drawings, Job Agreements and data supplied by the Supplier to the Customer (including Pre-existing Materials and the Supplier's Equipment) shall, at all times, be and remain as between the Supplier and the Customer the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

20 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.



Software License Budget Simulator

Client Name : The Government of British Columbia

Job Description : Budget Simulator

Written by : Ben Fowkes

Date : 15 November 2011

(1) Delib Limited

(2) The Government of British Columbia

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This Agreement is made on 15 November 2011

Between:

Delib Ltd, registered in England at 35 King Street, Bristol, BS1 4DZ. Company number: 5158056. ("Delib");
and

(1) The Government of British Columbia, 617 Government Street, Victoria, British Columbia,
V8V 9V1, Canada ("The Client").

Background:

(A) The Government of British Columbia wishes to use an online budget simulator tool to consult members of the public as part of their budget formulation process.

(B) As part of this Project, Delib will license an e-consultation software tool to The Government of British Columbia on the following terms and conditions.

It is agreed as follows:

1. Definitions and interpretation

1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"**Agreement**" means this Agreement (including any schedule or annexure to it and any document in agreed form).

"**Initial Term**" means from the date of this contract to 15/11/11.

"**License**" means the license granted by the Licensor pursuant to sub-clause 2.1.

"**License Fee**" means the fee for the License and the services to be provided under this Agreement as specified in clause 5.

"**Software**" means the e-consultation software product "Budget Simulator" as detailed in the schedule.

"**Budget Simulator**" is a piece of software designed to facilitate consultation using the Internet.

"**Term**" means the term of this Agreement.

"**Website**" means the pages, text, graphics and other content deployed by Delib at the URLs www.budgetsimulator.com/governmentofBritishColumbia and accessible using the http protocol and web browser software with appropriate capabilities. The website includes a deployment of the Software for the purposes of allowing users to partake in a consultation exercise.

1.2 In this Agreement, unless the context otherwise requires:

(A) words in the singular include the plural and vice versa and words in one gender include any other gender;

(B) a reference to:

- I. any party includes its successors in title and permitted assigns; and
- II. clauses and schedules are to clauses and schedules of this Agreement and references to subclauses and paragraphs are references to subclauses and paragraphs of the clause or schedule in which they appear

(C) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement.

2. License

- 2.1 In consideration of payment of the License Fee to Delib, Delib grants to the client a non-exclusive license during the Initial Term to sub-license end users to access and use the Software via the Website,
- 2.2 The Licensee hereby acknowledges that it and the End Users are licensed to access and use the Software only in accordance with the express terms of this Agreement and not further or otherwise.

3. Website

- 3.1 The Website will be made available to end users subject to the client meeting the conditions as set out in this agreement.

4. Maintenance, support and training obligations

- 4.1 Delib will maintain the Software and the Website during the Initial Term. This maintenance will be limited to: fixing any major bugs that prevent the Software from working correctly; correcting any typographical or factual errors made by Delib. Any changes to Software or Website features or any changes required as a result of errors made by the client will be subject to additional charges based on Delib's standard rates for such work.
- 4.2 Delib will after the end of the Initial Term continue for a period of three months to host the Website and allow access to the data by the client, but without providing any access to the main interactive features of the Software and/or maintaining the Software or the Website in any way, or providing any form of warranty in the Software or the Website other than in the secure storage of and access to the data for the three month term.

5. Payment

- 5.1 The client will pay a non-refundable License Fee of \$8,395 (excluding VAT) to Delib within thirty days of signature of this Agreement.
- 5.2 If any party defaults in the payment when due of any sum payable under this agreement (whether payable by agreement or by an order of a court or otherwise), the liability of that party shall be increased to include interest on that sum from the date when such payment was due until the date of actual payment at a rate per annum of 8 per cent above the base rate from time to time of National Westminster bank PLC. Such interest shall accrue from day to day and shall be compounded annually.

6. Warranty

6.1 Terms of warranty are: the Website will function correctly when accessed using the following combinations of hardware & software:

- Macintosh:
 - OS: Mac OS X version 10.2 or above
 - Browser: Firefox
- Windows
 - CPU: Intel Pentium 3
 - OS: Windows XP
 - Browser: MS Internet Explorer 6 or above

Subject to the following requirements:

- 32Mb RAM
- Display capable of displaying thousands of colours at 800x600 resolution
- Keyboard & mouse
- Internet connection

7. Proprietary rights

7.1 The Software and the copyright and other intellectual property rights of whatever nature in the Software are and shall remain the property of Delib and Delib reserves the right to grant licenses to use the Software, or any part thereof, to third parties.

7.2 The client shall notify Delib immediately if The Client becomes aware of any unauthorised use of the whole or any part of the Software by any person.

8. Intellectual property rights indemnity

Delib shall indemnify The Client against any claim that the normal use of the Software infringes the intellectual property rights of any third party provided that Delib is given immediate and complete control of such claim, that The Client does not prejudice Delib's defence of such claim, that The Client gives Delib all reasonable assistance with such claim and that the claim does not arise as a result of the use of the Software in combination with any equipment or programs not approved by Delib. Delib shall have the right to replace or change all or any part of the Software in order to avoid any infringement. The foregoing states the entire liability of Delib to The Client in respect of the infringement of the intellectual property rights of any third party.

9. Confidentiality of Software

9.1 The Client undertakes to treat as confidential and keep secret all information contained or embodied in the Software and any related materials and all information conveyed to The Client by training ("Confidential Information").

9.2 The Client shall not without the prior written consent of Delib divulge any part of the Confidential Information to any person except:

- (a) The Client's own employees and then only to those employees who need to know it; and
- (b) The Client's auditors, HM Inspector of Taxes, HM Customs & Excise and any other persons or bodies having a right, duty or obligation to know the business of The Client and then only in pursuance of such right, duty or obligation.

9.3 The Client undertakes to ensure that the persons and bodies mentioned in sub-clauses (a) and (b) of clause 9.2 are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to Delib. The client shall indemnify Delib against any loss or damage which Delib may sustain or incur as a result of The Client failing to comply with such undertaking.

9.4 The Client shall promptly notify Delib if it becomes aware of any breach of confidence by any person to whom The Client divulges all or any part of the Confidential Information and shall

give Delib all reasonable assistance in connection with any proceedings which Delib may institute against such person for breach of confidence.

Delib will not use or disclose the information stored on behalf of The Government of British Columbia for any purpose other than to explicitly carry out the normal support and maintenance duties under this license without written consent. Delib reserves the right to publicise the Client's use of the Budget Simulator, and to use the Client's Budget Simulator as a case study unless the Client specifically states that they do not wish their Budget Simulator to be used in this way.

9.5 The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of the License or this Agreement.

10. Alterations

10.1 Except to the extent and in the circumstances expressly required to be permitted by Delib by law, the Licensee shall not alter, modify, adapt or translate the whole or any part of the Software in any way whatever nor permit the whole or any part of the Software to be combined with, or become incorporated in any other computer programs nor decompile, disassemble or reverse engineer the same nor attempt to do any of such things.

11. Termination

11.1 The Client may terminate the License at any time by giving at least 30 days' prior written notice to Delib.

11.2 Delib may terminate the License forthwith on giving notice in writing to The Client if:

(a) The Client commits any material breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within 30 days after the receipt of a request in writing from Delib so to do, to remedy the breach (such request to contain a warning of Delib's intention to terminate);

(b) The Client permanently discontinues the use of the Software

11.3 Save as expressly provided in sub-clause 11.2 or elsewhere in this Agreement the License may not be terminated.

11.4 Any termination of the License or this Agreement (however occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

11.5 Delib will remove and destroy all consultation data relating to The Government of British Columbia upon contract termination

12. Liability

12.1 Subject to clause 12.3, Delib's entire liability arising out of or in connection with this Agreement shall be limited to damages in the sum equivalent to the License Fee.

12.2 Delib shall not be liable to The Client for the following loss or damage however caused and even if foreseeable: consequential, indirect or special loss or damage or any economic loss (including loss of profits, business, contracts, revenues, goodwill, production and anticipated savings of every description).

12.3 Delib accepts unlimited liability for death or personal injury caused by its negligence and for any misrepresentations made fraudulently and for any other acts of fraud or deceit.

13. General

13.1 Releases and waivers.

The rights, powers and remedies conferred on any party by this Agreement and remedies available to any party are cumulative and are additional to any right, power or remedy which it may have under general law or otherwise.

13.2. Assignment

Except as expressly permitted in this Agreement, The Client shall not be entitled to assign, sub-license or otherwise transfer this Agreement or the rights granted herein to any third party whether in whole or in part.

13.3 Force majeure

Neither party shall be deemed to be in breach of this Agreement or otherwise liable to the other by reason of any delay in performance or non-performance of any of its obligations (save obligations as to payment) under this Agreement to the extent that such delay or non-performance is due to any event beyond the reasonable control of that party, including without limitation the blocking or restricting of information to and/or from the website and/or Delib's ISP.

13.4 Entire agreement and variation

- (a) This Agreement sets out the entire agreement and understanding between the parties in respect of the subject matter of this Agreement.
- (b) No purported variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.

13.5 Exclusion of Contracts (Rights of Third Parties) Act 1999

No term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

13.6 Invalidity

To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

13.7 Governing law and jurisdiction

- (a) This Agreement shall be governed by and construed in accordance with English law.
- (b) Each of the parties irrevocably submits for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England.

This Agreement has been signed on the date appearing at the head of page 1.

Signed by _____
for and on behalf of
Delib Limited

Signed by _____
for and on behalf of
The Government of British Columbia