

TERMS AND CONDITIONS FOR TRAINING SERVICES

1. DEFINITIONS

"Agreement" means these terms and conditions and the Booking Form and KPI's acceptance of the Booking Form.

"Charges" means the charges for the Training Services set out in the Booking Form.

"the Client" means the client identified in the Booking Form.

"Clause" means a clause in these terms and conditions.

"the Date(s) for the Training Services" means the date(s) upon which the Training Services are to take place as set out in the Booking Form.

"Delegates" means the numbers of the Client's staff who are to receive the Training Services as set out in the Booking Form.

"KPI" means KPI Business Services Ltd.

"Personal Data" means the data which relates to a living individual who can be identified from that data or from that data and other information and which is provided to KPI by the Client.

"the Trainer" means the person delivering the Training Services.

"the Training Location" means the place at which the Training Services are to be provided by KPI as set out in the Booking Form.

"Training Services" means the training services set out in the Booking Form.

2. TRAINING SERVICES AND LOCATION

2.1 KPI shall provide the Training Services on the Date(s) for the Training Services and in accordance with these terms and conditions.

2.2 Up until 24 hours before the Training Services are due to commence, KPI may by notice in writing alter the Training Location.

2.3 KPI reserves the right to assign or sub contract its training courses to other personnel.

2.4 KPI course listings are provided for information purposes only and do not constitute an offer for a particular course or programme.

2.5 KPI constantly strives to improve the content of its courses and therefore reserves the right to modify the specification of a course without notice to the Customer.

2.6 A course title, duration, cost, content and location are liable to change at any time.

3. TRANSFERS, CANCELLATION AND POSTPONEMENT

3.1 A Delegate identified in a Booking Form may transfer to another course provided at least one week's notice is received and the booking has not previously been transferred by the delegate. A Delegate identified in a Booking Form may cancel a booking and receive a refund of fees paid; the amount of the fees refunded will be reduced for shorter notice periods.

3.2 Delegate substitutions may be made prior to the start of the course without penalty, providing KPI is informed in writing. It is the Customer's responsibility, having referred to relevant KPI course information, to ensure the course is suitable for the delegate's requirements.

3.3 Notification of any cancellation or transfer must be made in writing to the Training Manager at KPI Business Services Ltd, Denehurst, St Michaels St, Shrewsbury, SY1 2HB.

3.4 In all circumstances KPI require written notification of any transfers or cancellations.

3.5 KPI undertakes to provide the training course on the date specified except when circumstances prevent this. In these circumstances KPI will endeavour to re-run the course on a mutually agreeable basis.

3.6 KPI reserves the right to cancel a course, though we make every effort to ensure this does not occur. In the event of a course being cancelled by KPI, alternative dates will be proposed or a full refund of monies paid will be made to the customer.

3.7 KPI takes no responsibility for loss of profit and/or for any incidental, consequential special or indirect losses as a consequence of cancellations.

4. DELEGATES

4.1 Delegates shall act reasonably throughout the training. KPI may remove a Delegate from a course, where, in the opinion of the Trainer, which shall be final, the Delegate is behaving unreasonably.

4.2 It is the Customer's responsibility to ensure that the course is suitable for their requirements.

4.3 All delegates should have read and understood the course outline and met the necessary prerequisites. KPI reserves the right to ask a delegate to leave the training event if the delegate does not meet the course prerequisites.

4.4 KPI urges clients to support this policy, which is designed to protect the Customer's investment.

4.5 All delegates will be required to abide by any site rules and regulations operating at the course location.

5. CHARGES AND PAYMENT

5.1 The Charges for Training Services shall be due upon booking and shall be paid within 7 days of the date of KPI's invoice.

5.2

5.3 The Client shall pay the Charges without deduction or set-off.

5.4 Sums due under this Agreement are exclusive of VAT which shall be payable by the Client.

5.5 In the event the Client fails to make payment in accordance with this Agreement, KPI may:

5.5.1 charge interest at the statutory interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998 and amendments thereto per month or part thereof on the unpaid sum for that period the sum remained properly due before and after any court judgement; and/or

5.5.2 refuse admission to the Training course without notice.

6. LIABILITY AND ITS EXCLUSION AND LIMITATION

6.1 The Charges are determined on the basis of the limits of liability set out in these terms and conditions. The Client may, by written notice to KPI, request KPI to propose a higher limit of liability subject to an increase in the Charges.

6.2 Clause 6 sets out the entire liability of and exclusion thereof by KPI under and/or in connection with this Agreement and in respect of breach of this Agreement or statutory duty, representations, statements or tortious act or omission including negligence.

6.3 In no event shall KPI be liable for (whether direct or indirect) any loss of contracts, profits, anticipated savings, revenue, goodwill, business, loss or corruption of data or software programs, financing expenses, interruption in the use or availability of data, stoppage to other work or consequential losses, nor for any indirect losses.

6.4 Subject to Clause 6.5, KPI's liability shall not exceed the Charges.

6.5 KPI and the Client shall indemnify each other against damage to tangible property, whether personal or real, and death or injury to persons to the extent caused by the negligence of the other party provided that:

6.5.1 the other party is immediately notified of any claim and has full power to negotiate and settle any claims;

6.5.2 the total liability of each party to the other for damage to tangible property, whether personal or real, shall be limited to £2,000,000 in respect of each event or connected series of events and an annual aggregate of £5,000,000.

6.6 Each provision of this Clause shall survive independently.

6.7 Nothing in this Agreement shall operate to limit or exclude any liability of KPI which may not be excluded and or limited by law.

6.8 Clause 6 shall apply before and after any termination of this Agreement.

6.9 Disclaimer : The information contained in all KPI Training coursework & literature is distributed on an "As Is" basis, without warranty. While every precaution has been taken in the preparation of the training courses and associated literature, neither the author nor KPI shall have any liability to any person or entity with respect to any loss or damage caused or alleged to be caused directly or indirectly by the instructions contained in the coursework or by the computer software and hardware products described in it.

7. INSURANCE

The parties shall carry public liability insurance for a minimum amount of two million pounds for each and every claim and shall provide evidence of this cover upon reasonable request.

8. ADVERTISING

8.1 KPI may make reference to a Client's contract within any proposal to further Clients, provided only fundamental facts are divulged and not proprietary and confidential information.

8.2 KPI may store the names of the Delegates for the purpose of advising them of the availability of further courses in the future.

9. CONFIDENTIALITY

The parties shall treat as and keep confidential all information whether of a technical, commercial or any other nature relating to the other party and shall not, during the period of this Agreement, or at any time after its termination, divulge any such information to any person not authorised by the divulging party to receive it and shall not utilise any secret or confidential knowledge or information acquired in connection with this Agreement to the detriment or prejudice of the other party or use the same for any purposes save for the purposes of this Agreement.

10. DATA PROTECTION

10.1 The Client shall ensure that it has in place all necessary consents in connection with Personal Data to allow KPI at all times to perform the Training Services without infringing any third party rights. KPI shall not be liable to perform the Training Services to the extent it is unable to due to a breach of this Clause.

10.2 KPI warrants to the Client that it will only use the Personal Data for the purpose of carrying out its obligations hereunder and that it will ensure that all reasonable and appropriate security measures are in place to protect the Personal Data and that it will destroy or deliver up the Personal Data upon written demand from the Client, and further, that it has in all respects complied with its obligations under the Data Protection Act 1998 and any amendments to or re-enactments thereof.

11. INTELLECTUAL PROPERTY

All intellectual property rights, including copyright, patents and design arising in connection with this Agreement shall belong to and remain vested in KPI and the Client shall execute any document necessary for this purpose.

12. WARRANTY

KPI warrants that in carrying out the Training Services it has and will exercise all reasonable skill and care to be expected of a professional, experienced in such work.

13. HEALTH AND SAFETY

The parties shall comply with all applicable health and safety legislation and codes of practice.

14. TERMINATION

14.1 Either party may terminate this Agreement by written notice:

14.1.1 if the other party fails to remedy a material breach of this Agreement within 30 days of written notice identifying the breach and notifying of an intention to terminate; and/or

14.1.2 if the other party makes any voluntary arrangement with its creditors or enters into administration (whether or not pursuant to a court order) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation or is deemed under Section 123 of the Insolvency Act 1986 to be unable to pay its debts or is dissolved; and/or

14.1.3 if an encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the other party; and/or

14.1.4 the other party threatens to cease to carry on business.

15. RIGHTS ON TERMINATION

Accrued rights, Clauses 5, 6, 7, 8, 9, 10, 11, 12, 15 and 18 and rights by their nature intended to survive termination of this Agreement, shall survive any termination of this Agreement.

16. ASSIGNMENT

This Agreement is personal to the Client and may not be assigned by the Client in whole or in part.

17. FORCE MAJEURE

Neither party shall be responsible for any failure or delay in performance of its obligations under this Agreement (other than the obligation to make payments of money) due to any force majeure event including, Act of God, refusal of licence (other than as a result of any act or omission of KPI) or other Government act, fire explosion, embargo, terrorism, civil disturbance, accident, epidemics, lightning damage, electromagnetic interference, radio interference, strikes, industrial dispute, or any other cause beyond its reasonable control.

18. NON-SOLICITATION

The Client shall not during the term of this Agreement and for 6 months thereafter, entice or solicit for employment with it or any other entity any Trainer who has been engaged to provide the Training Services.

19. ENTIRE AGREEMENT

This Agreement sets out the entire agreement between the parties in relation to the subject matter hereof and supersedes all previous arrangements, agreements and representations whether written, oral or implied between the Client and KPI relating to the Training Services.

KPI employees or agents are not authorised to make any representations whatsoever concerning the provision of services unless confirmed by KPI in writing. The Customer acknowledges that it does not rely on, and waives any breach of, any such representations that are not so confirmed.

20. AGREEMENT AMENDMENTS

Any amendments to this Agreement shall be in writing.

21. EFFECTIVENESS

This Agreement shall be effective upon signature of the Booking form by the parties.

22. THIRD PARTIES

Third parties have no rights under the Contracts (Rights of Third Parties) Act 1999 or any amendment to or re-enactment of it to enforce any provision of this Agreement.

23. LAW

This Agreement shall be construed in accordance with English law and the English courts shall have sole jurisdiction.