

**FIGHTING MINDS  
TERMS OF BUSINESS  
16/11/18**

## **1. DEFINITIONS**

"Agreement" means these terms and conditions and (depending on the type of Training Services) (i) the Order and Fighting Minds' acceptance of the Order or (ii) the Training Request. "Order " means the purchase order sent by the client "Training Request" means an official email or letter received requesting training to be supplied. "Charges" means the charges for the Training Services set out in the order. "the Client" means the client identified in the Order. "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 response to the order. "Expenses" means expenses incurred in respect of travel and accommodation wholly and necessarily for the purposes of the Agreement as may be identified in an order. "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 Fighting Minds 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 Fighting Minds as set out in the response to order. "Training Services" means the training services set out in the Order or the Proposal.

## **2. TRAINING SERVICES AND LOCATION**

2.1 Fighting Minds shall provide the Training Services on the Date(s) for the Training Services arranged between the Trainer and the delegate and in accordance with these terms and conditions.

## **3. TRANSFERS, CANCELLATION AND POSTPONEMENT**

3.1 If a Delegate identified in an Order or a Proposal wishes to cancel, the following fees shall be due: Days notice of cancellation / transfer prior to the commencement of the Training Services % of Charges to pay up to 42 working days 25%, 41-32 working days 50% 31-22 working days 75% 21 working days or less 100%.

3.2 A substitute delegate may be provided at no cost.

3.3 Notification of any cancellation or transfer must be made in writing to the Training Manager at Fighting Minds, Cotton Court Business Centre, Church Street, Preston PR1 3BY, United Kingdom.

## **4. DELEGATES**

Delegates shall act reasonably throughout the training. Fighting Minds may cancel training and remove themselves from the premises if a Delegate from a course, where, in the opinion of the Trainer, which shall be final, the Delegate or other persons present who are representatives of the client are behaving unreasonably.

## **5. CHARGES AND PAYMENT**

5.1 The Charges for Training Services which are subject to an Order shall be due upon booking and shall be paid within 7 days of the date of Fighting Mind's invoice.

5.2 The Charges for the Training Services which are subject to a Proposal and related Expenses shall be due upon completion of the Training Services and payable within 30 days of the date of Fighting Minds' invoice.

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, Fighting Minds 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 judgment; and/or

5.5.2 by notice in writing suspend supply of the Training Services.

## **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 Fighting Minds, request Fighting Minds 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 Fighting Minds 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 Fighting Minds 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, Fighting Minds' liability shall not exceed the Charges.

6.5 Fighting Minds 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 Fighting Minds which may not be excluded and or limited by law.

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

## **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 Fighting Minds 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 Fighting Minds 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 utilize 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 Fighting Minds at all times to perform the Training Services without infringing any third-party rights. Fighting Minds 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 Fighting Minds 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 Fighting Minds and the Client shall execute any document necessary for this purpose.

## **12. WARRANTY**

Fighting Minds warrants that in carrying out the Training Services it has and will exercise all reasonable skill and care to be expected of an experienced professional, 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 Fighting Minds) 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 Fighting Minds relating to the Training Services.

## **20. AGREEMENT AMENDMENTS**

Any amendments to this Agreement shall be in writing.

## **21. EFFECTIVENESS**

This Agreement shall be effective upon Fighting Minds receiving an official purchase order, or headed request for training.

## **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.