

General Clauses for The Outsourced Training Company Ltd. Contracts

1. Acceptance

Unless otherwise provided herein, the acceptance of any contract arising under this Purchase Order (PO) or the commencement of work or the performance of any service there under by the Supplier ("Seller") shall constitute acceptance by the Seller of any contract arising under this PO and all of its terms and conditions. There are no agreements or outstanding items other than those contained in this PO. Seller and Buyer acknowledge that neither party has relied upon any oral or written representation made to it by the other or its employees or agents and each party has made its own independent investigations into all matters relevant to it.

2. Invoice

A separate invoice or summary must be rendered for each individual performance of work or the supply of goods, materials or services and sent to **The Outsourced Training Company Ltd** ("Buyer") quoting the relevant PO number. Invoices should be raised on a monthly basis and in arrears.

3. Status

- During the term of any contract arising under this PO, Seller shall be an independent contractor and not the servant of the Buyer.
- Where Seller is self-employed; the Seller shall be solely responsible for the stamping of their National card and for the discharge of all their Income Tax.
- Where Seller is a firm, business or company, all personnel shall be employed by Seller (save, as stated in d) below) and Seller shall be solely responsible for the deduction of their PAYE and National Insurance Contributions. Personnel shall not be employees of Buyer.
- Where Seller is a firm, business or company, Seller may, subject to obtaining the prior written consent of Buyer, subcontract all or part of any contract arising under this PO. Seller or Seller's sub-contractor as the case may be, shall be responsible for the deduction of their PAYE and National Insurance contributions. Personnel shall not be employees of Buyer.
- Seller shall be solely responsible for the discharge of all the Value Added Tax liability arising out of payment of the price under any contract arising under this PO.

4. Supersedes Prior Agreement

Any contract arising under this PO supersedes any prior agreement between Seller and Buyer, whether written or oral, and any such prior agreements are cancelled as at the date of any contract arising under this PO but without prejudice to any rights which have already accrued to either Seller or Buyer.

5. Inspection

Buyer reserve the right to reject any goods or materials or work which is proved on inspection to be faulty in quality or construction, or which does not come up to standard required. Rejected goods or materials or work will be returned at Sellers expense and risk.

6. Net Cost

All costs should be identified clearly as net of all rebates and discounts etc. The term "net cost" shall mean the lowest net rate the Seller is able to obtain for any materials or services acquired by the Seller after deduction of all discounts (except cash discounts), rebates, commissions, differentials and similar sums paid or allowed the Seller by a third party (including such as would have been payable or allowable to the Seller if applied for).

7. Payment

Buyer Net monthly Account procedure shall apply. Payment will usually occur 30 days after Financial receipt of the invoice.

8. Warranty

Seller warrants that all services rendered by him/her shall be performed in a professional manner by qualified personnel and that while on Buyer premises he/she shall cause as little interference with and inconvenience to Buyer's business as reasonably possible. Seller shall comply with all safety and other relevant rules and regulations applicable to Buyer premises. Each of Seller's personnel must carry their contractor's pass or equivalent recognised identification at all times and must attend only those areas where their work justifies their presence.

9. Insurance Third Party Risks

- Seller shall insure and keep insured during the continuance of any contract arising under this PO all liabilities, which may attach to Seller or the servants or agents of Seller for any death, injury, loss or damage to any person or property arising out of or in connection with the performance of the contract.
- Seller shall indemnify Buyer and Buyer's servants and agents against all losses and claims of whatsoever nature for or in respect of death, injuries or damage to any person or property arising from the performance of the contract and also against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, PROVIDED THAT Seller shall not be liable to indemnify Buyer or Buyer's servants or agents where the loss or claim is occasioned by or arises from the negligence or breach of statutory duty of Buyer or its servants or agents.
- The insurance referred to above shall be effected in such sums as may be agreed, but in any event for not less than an indemnity of £1,500,000 in respect of any one accident or series of accidents arising out of one event and Seller shall produce for inspection to Buyer as and when Buyer may require it, such policy or policies of insurance and all premium and renewal receipts. N.B. Seller is advised to arrange if necessary for the extension of their employers liability and third party policies to include their contractual liability under this Condition.

10. Termination at Option of Buyer

- Performance of work and the supply of goods, materials or services under any contract arising under this PO may be terminated by the Buyer at its option, in whole or in part, at any time by written notice to Seller.
- Seller shall co-operate with Buyer and Seller shall take prompt action to minimise their loss (if any).
- No termination payment shall be due to the Seller should notice be provided within 10 working days of scheduled delivery. Any termination falling within this 10 working days will require the Buyer to pay the full payment terms.
- At Buyer's request, Seller shall deliver to Buyer all completed work and/or work in progress.
- Should termination occur, at full payment terms, Buyer may request, at their discretion, to use the Seller's services as required at no charge.
- The audit control provisions of condition 24 shall apply to any termination claim submitted by Seller.
- The provisions of this condition 10 shall not apply if Buyer terminates any contract arising under this PO, for the default of Seller pursuant to condition 11 or 12.

11. Termination for Default of Seller

If Seller refuses or fails to make deliveries of the suppliers covered by any contract arising under this PO within the time specified therein or if Seller (1) fails to perform any other provisions of any contract arising under this PO or (2) fails to make progress so as to endanger performance of any contract arising under this PO in accordance with its terms and in either of the circumstances enumerated in (1) or (2) does not cure such failure within a period of ten days after receipt of notice from Buyer specifying such failure, Buyer, subject to the provisions of Clause 3.8 (Excusable Delays), may by written notice to Seller, terminate the performance of work there under, in whole or in part, in which event Buyer shall be discharged from all further liability there under.

12. Termination in event of bankruptcy or receivership or liquidation

Without prejudice to any option which may arise to terminate any contract arising under this PO under Condition 10 or 11 Buyer may, by written notice to Seller, terminate the performance of any contract arising under this PO in whole or in part if a receiver, manager or administrative receiver is appointed for Seller, or the whole or any part of Seller's undertaking or assets is seized or Seller shall be deemed to be by virtue of section 123 of the Insolvency Act 1986 unable to pay its debts, or a resolution is passed or an order is made for the liquidation or winding up of Seller, or Seller enters into any composition or arrangement with its creditors or has a bankruptcy petition served on it or any event occurs which is substantially equivalent under English Law to any such events.

13. Excusable Delays

Neither party shall be liable for failure to perform under this PO from causes or events beyond the reasonable control and without the fault or negligence of the party such as acts of God, fire, floods or strikes. Nothing in this condition shall limit Buyer's option to terminate at any time under the Condition 10.

14. Delivery up of materials on termination

- Title in the property of goods or materials supplied by Buyer to Seller for the performance of any contract arising under this PO ("the Buyer's property") shall remain in Buyer who may retake possession thereof at any time without notice wherever the same may be.
- Seller agrees to indemnify Buyer against loss of or damage to the Buyer's property (fair wear and tear excepted) during the term it is in Seller's possession, custody or control.
- Except with Buyer's consent in writing, the Buyer's property shall not be removed from the Buyers' premises.
- Seller shall promptly pay Buyer on demand the full value of any of the Buyer's property, which is not satisfactorily accounted for.
- Seller shall upon the termination of any contract arising under this PO immediately deliver up to Buyer all the Buyer's property.

15. Waiver

The failure to enforce at any time or for any period any one or more of the terms and conditions of any contract arising under this PO shall not be a waiver of them or of the right at any time subsequently to enforce all the terms of any such contract.

16. Confidentiality

Seller hereby undertakes both during and after the term of any contract arising under this PO to treat as confidential and to take all necessary steps to prevent the disclosure to any third party without the prior written consent of Buyer all information, including financial and business information, received from Buyer, and all information otherwise acquired or created by Seller that arises from the services rendered by Seller under any contract arising under this PO, except such information that has been or shall have been published or is in the possession of anyone who has not received such information as confidential other than because of a publication made in breach of this condition.

17. Intellectual Property rights

The Seller agrees:

- That all copyright and other intellectual property rights in the UK and elsewhere in any literary, dramatic, musical, or artistic work, sound recording, film (including video) or other material created by the Seller during the course of any contract arising from this PO shall be the property of the Buyer, including the right to reproduce, authorise the reproduction of, adapt, use and sell such works in any country.
- To execute any document and to do anything that the Buyer may reasonably require of the Seller, to assist the Buyer in obtaining or perfecting its title to such rights.
- To grant to the Buyer and Associated Companies (being Buyer or Client) a permanent non-exclusive paid-up worldwide licence under any copyright or other intellectual property right that the Seller owns or controls, the use of which is necessary to enable or facilitate the exercise of such rights.
- To waive all moral rights in such material.
- To guarantee that any use or reproduction of any such material by the Seller or the Buyer will not infringe any national or foreign copyright or other intellectual property rights, and
- To warrant that all such materials will be the original work of the Seller or of Seller's employee and will not be copied wholly nor in part from any other work or material save work or material in which Buyer (or an Affiliate) owns the copyright or a third party owns the copyright and from whom Seller has obtained in writing a licence to permit the reproduction, use and sale of the material by Buyer (or an Affiliate) a copy of which licence the Seller will promptly deliver to the Buyer upon request

18. Branding

The Seller agrees that any work created under contract to the Buyer and Associated Companies (being Buyer or Client) shall display the Buyer and/or Client brand marking only. Any reference to the Seller branding shall be subject to prior agreement with the Buyer.

19. Sub-contracting

Seller shall not sub-contract any contract arising under this PO or part of a contract without prior consent of Buyer. The Seller shall ensure that any subcontractors are accredited to the required **The Outsourced Training Company Ltd** standard of subject knowledge and delivery capability. Where such consent is given Seller will obtain the agreement of Seller's sub-contractor to conditions similar in terms to these conditions. Seller will, at Seller's expense enforce such conditions by legal proceedings if so requested by the Buyer. Seller will prohibit such sub-contractor from further delegating performance of Seller's contract.

20. Assignment

Seller shall not assign any rights, duties or obligations arising under any contract arising under this PO. Buyer may assign any rights, duties or obligations arising under any contract arising under this PO. The Outsourced Training Company Ltd may at any time assign, transfer, charge or deal in any other manner with this agreement or any of its rights under it or sub-contract any or all of its obligations under it.

The seller may not assign, transfer, charge or deal in any other manner with this agreement or any of its rights under it, nor purport to do any of the same, nor sub-contract any or all of its obligations under this agreement without having obtained the prior written consent of the Buyer.

21. Advertising

Seller shall not, without first obtaining the written consent of Buyer, in any way whatsoever advertise or publish the fact that Seller has contracted to supply to Buyer the goods or services pursuant to any contract arising under this PO.

22. Proper Law

Any contract arising under this PO shall be governed by English law and the parties hereto expressly subject themselves to the non-exclusive jurisdiction of the English courts.

23. Health and Safety at Work Act 1974

It is a fundamental condition of any contract arising under this PO, not only that all technical specifications and manufacturing standards contained herein or made part hereof should be observed, but also that any substance, machinery, goods or equipment supplied or installed hereunder shall so far as is reasonably practicable be so formulated, designed, constructed, finished and packaged as to be safe and without risks to health when in use. Furthermore if any conditions are necessary to ensure such safety and harmlessness in use, or any substance, machinery, goods or equipment possess dangerous properties whether in use or otherwise, appropriate and conspicuous labels or other warnings will (so far as practicable) be affixed to or appear on every separate item thereof and any container in which the same shall be supplied. If Seller carries out works or performs any service on Buyer's premises Seller will take all reasonable practicable steps to ensure that those premises (so far as within his control) and the works are at times safe and without risks to the health of his own employees and all other persons.

24. Audit Control

- Seller agrees to keep such books and records as shall readily disclose the basis for all costs involved against any contract arising under this PO.
- Seller will retain these books and records and make them available at any reasonable time to Buyer's authorised representatives for examination and audit and shall disclose all relevant information. Seller is required to keep records of all jobs performed for a period of two years beginning with the final payment of each particular job. A job is not necessarily an entire protracted programme but can be a defined section within a programme. In the event of termination of any contract arising under this PO, Seller is required to retain all records for a period of two years beginning with the final payment under the contract. If, upon such audit Buyer shall determine that Seller's charges exceed the amounts properly chargeable to Buyer, Seller shall promptly refund to Buyer the amount of such overcharges.

25. Travel Expenses

Buyer will only reimburse Seller in respect of agreed and authorised travel expenses using the following guidelines. VAT receipts are required for all expense claims other than mileage.

Fuel	Reimbursed @ 40p per mile (using own vehicle)
Parking	Original receipts are required for £3.00 or more – although receipts below this amount should still be submitted.
Meals	Domestic travel – original VAT receipts are required for all individual meals of £2.50 and over. You can only claim £2.49 without receipts, which must be for actual expenses incurred. Alcohol is reimbursable if taken as refreshment as part of a meal (dinner). There is a maximum Per Diem allowance of £27.00 , which covers lunch, dinner, refreshments and any gratuities. Breakfast is claimable if on an overnight stay - it does not form part of the Per Diem allowance. Foreign Travel – if you are required to travel abroad, there is no Per Diem allowance, although claims will be subject to the rest of reasonableness.
Hotels / Flights / Other	Claims should be supported with an original VAT bill and should be agreed in advance. Personal expenses (such as videos, laundry, dry cleaning, room service) are not reimbursable.

26. No Agency

Seller is an independent person, form, business or company and must not hold out as an agent of the Buyer. Any contract arising under this PO does not constitute either a partnership or joint venture between the parties.

27. No Solicitation of New Business

The Buyer expects the Seller to recognise that by agreeing to this contract they will be representing Buyer and as such are not during the course of delivering the requirements of this contract able to solicit work or enter into agreements regarding additional or alternative work other than what be destined to be provided through Buyer.

The Seller agrees that during any contract and for a period of twelve (12) months following termination, whether on the Seller behalf or in conjunction with or on behalf of any person, company, business entity, or other organisation whatsoever directly or indirectly:

- solicit or assist in soliciting, in competition with the Buyer, the customer or business of any client or prospective client with whom the Seller has had personal contact or dealings or about whom the Seller was in possession of confidential information during the period of twelve (12) months prior to the termination date or, if shorter, the duration of any contract.
- accept, facilitate the acceptance of, or deal with in competition with the Buyer, the customer or business of any client or prospective client, with whom the Seller has had personal contact with or dealings with or about whom the Seller was in possession of confidential information during the period of twelve (12) months prior to the termination date or, if shorter, the duration of any contract.
- solicit for employment any employee of the Buyer or its affiliates or dissuade them from continuing to be so employed.

28. Diversity

The Buyer requires the Seller to adhere to Buyer Equal Opportunity policy.

28. Headings

The headings in this document are for convenience only and shall not affect its interpretation.

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