

# QWARIE LTD FRAMEWORK CONTRACT FOR THE SUPPLY OF PRIVATE TRAINING SERVICES

## Table of Contents

1. Introduction .....	1
2. Definitions & Interpretation.....	1
3. The Purchase Process & Formation of the Contract.....	5
4. Rights and Obligations of the Supplier.....	8
5. Rights and Obligations of the Customer .....	9
6. Fees, Payment Terms and Conditions.....	12
7. Breach of Contract and Remedies.....	13
8. Cancellation .....	14
9. Intellectual Property Rights.....	15
10. Confidentiality .....	15
11. Limitation of Liability.....	16
12. Insurance .....	17
13. Termination.....	18
14. Consequences of Termination .....	18
15. Force Majeure.....	19
16. Assignment and Subcontracting .....	19
17. Notices.....	19
18. Waiver.....	20
19. Severance.....	21
20. Relationship of the Parties .....	21
21. Third Parties .....	21
22. Variation & Versioning .....	22
23. Entire Agreement.....	22
24. Governing Law, Jurisdiction and Dispute Resolution.....	23

Version number: 8

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## 1. Introduction

### 1.1 The Purpose of the Framework Contract

**(a)** This Framework Contract sets out the terms and conditions pertaining to the Supplier's private training services.

**(b)** This Framework Contract is provided by the Supplier, in advance of the Parties entering into any agreement, so that the Customer has the opportunity to read, understand and accept the terms and conditions of the purchase process, and all rights and obligations within the Contract, prior to placing an Order or other Notice of acceptance.

## 2. Definitions & Interpretation

### 2.1. Definitions

**Bespoke Service:** any training course that is specified by the Customer, including but not limited to, the creation of new and specific training materials. See also: Customised Service,

**Classroom Training Unit (CTU):** Laptop Computers and Mi-Fi Internet service with associated cables and other accessories provided by the Supplier to facilitate the performance of the Service.

**Conditions:** conditions of this Framework Contract that may vary from time to time in accordance with Section 21 of this Framework Contract.

**Confidential Information:** See section 10 of this Framework Contract.

**Contract:** see section 22 of this Framework Contract.

**Course:** a training service, with a specific term, provided by the Supplier to the Customer and attended by Delegates.

**Course Materials:** printed and other material provided by the Supplier to the Delegates attending a Course, for the purpose of aiding the performance of the Service.

**Customised Service:** a training course that is specified by the Customer, using the Modules provided by the Supplier in the Supplier's website. A Customised Service is differentiated from a Bespoke Service (see above)

**Customer:** an individual or legal entity to whom a Service is provided by the Supplier.

**Customer Default:** See clause 5.3 of this Framework Contract

**CRM:** the Customer Relationship Management system. An on-line environment, provided by the Supplier, that is dedicated to the Customer and protected by password.

**Delegate:** individual person receiving a Training Service, be they an employee or Third Party attending the course as directed by a legal entity, a sole trader or a private individual.

Version number: 8

Distribution: Worldwide

**Disclosing Party:** a Party, and its employees and Third Parties, that are bound by the Contract, that discloses Confidential Information to the other Party to the Contract, including to its employees and Third Parties.

**Due Date:** See clause 6.2.(b) of this Framework Contract

**Fee:** the charge payable by the Customer for the supply of the Services in accordance with section 5 of this Framework Contract.

**Framework Contract:** this document, identified by version number, with its terms and conditions.

**In-house Training:** (see Private Course)

**Intellectual Property Rights:** see Section 9 of this Framework Contract.

**Laptop Computers:** Computers with no internet connection

**Module:** A part of a Training Course with a specific objective and term. Modules are combined to create Customised Courses.

**Notice:** see section 17 of this Framework Contract.

**Offer:** See clause 3.2.(b) of this Framework Contract

**Order (The):** a notice of acceptance composed by the Customer and received by the Supplier.

**Party:** the Supplier, the Customer and associated employees and Third Parties. See Disclosing Party & Receiving Party.

**Private Course:** a training Service delivered by the Supplier for the exclusive benefit of a Customer, at a location provided by the Customer or at an alternative location, agreed between the Parties.

**Purchase Order Number:** a unique number applied an Order by the Customer.

**Quotation:** See Offer

**Receiving Party:** a Party, and its employees and Third Parties, within the Contract that receives a Notice and specifically, Confidential Information, from the other Party to the Contract, including from its employees and Third Parties.

**Service:** training provided by the Supplier to the Customer as set out in the terms and conditions detailed in the Contract.

**Service Contract:** an exceptional and specific contract, between the Supplier and the Customer for the supply of Services where the terms or conditions vary from this Framework Contract. The Service Contract may stipulate the provision of a Classroom Training Unit.

Version number: 8

Distribution: Worldwide

**Supplier (The):** the Supplier of the Service; Qwarie Ltd. Rumwell Hall, Rumwell, Taunton, Somerset, TA4 1EL with registration in England & Wales number 10113351

**Third Party:** any outside party, contractor or consultant which the Supplier may engage to deliver or assist in the delivery of the Service to the Customer.

**Training:** the Service of training performed by the Supplier for the benefit of the Customer that is the transfer of knowledge and information.

**Validity:** term for which an Offer is valid, so that the Customer might place an Order in compliance with the terms and conditions set out in the Order.

## 2.2. Interpretation

In this Framework Contract, the following rules apply:-

- (a) Reference to a party shall include its personal representatives, successors or permitted assignees.
- (b) Reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (c) The words 'including', 'other', 'in particular', 'for example' and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words 'without limitation'.
- (d) A reference to 'writing' or 'written' includes SMS, e-mail, and form-mail, and expressions referring to writing shall be construed accordingly.
- (e) Within this Framework Contract, unless otherwise provided by way of a Service Contract, or the context otherwise requires, a word in the body of a clause, where the first character is capitalised and where the word may or may not begin a sentence, is a defined word (See clause 2.1 Definitions).
- (f) Words imparting the singular number shall include the plural and vice versa.
- (g) The headings used in this Framework Contract are for convenience only, and shall have no effect upon the interpretation of the Contract.
- (h) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

Version number: 8

Distribution: Worldwide

### 2.3. Eligibility of the Customer

By placing an Order for Services from the Supplier, the Customer warrants that they are legally entitled to enter into a binding Contract with the Supplier, be that as an individual person, or on behalf of a legal entity.

### 2.4. Prevalence of the Supplier's Contract

**(a)** The Supplier's Terms and Conditions, as set out in the Offer and within this Framework Contract, shall prevail over any term or condition within the Customer's Order that deviates from the Supplier's Offer.

**(b)** These Terms and Conditions shall apply to the Contract to the exclusion of any other terms and conditions that the Customer might seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, unless agreed by variation and in writing within a separate Service Contract.

**(c)** The Customer has no right to make an Offer or a counter Offer.

**(d)** The Customer may suggest or request a variation in Supplier's terms and conditions. **(e)** The Supplier might amend an Offer to comply with the Customer's suggestion or request.

**(f)** Where no separate and explicit Service Contract is raised by the Supplier, this Framework Contract is the governing agreement.

### 2.5. Specificity of the Contract

**(a)** Where the Customer has, in place, a specific agreement or contract for other Services provided by the Supplier, the Customer acknowledges that for any instances of Training, and/or where there is a conflict of terms and conditions, the terms and conditions of the Contract shall apply for any Training Service.

**(b)** Any sample information, images, descriptive matter or promotional material issued by the Supplier, including any descriptions or images contained in the Supplier's website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

### 2.6. Supplier Advertising and the Customer request for Service

**(a)** Where the Supplier makes an Offer by word of mouth or through advertising material, the Offer is not legally binding upon the Supplier.

**(b)** Where the Customer sends to the Supplier, a request for Service from the Supplier, this is an Invitation to treat.

**(c)** An Invitation to Treat is not binding upon the Supplier.

Version number: 8

Distribution: Worldwide

**(d)** Where the Customer request the Supplier to provide the Service in the UK, the Supplier shall offer to purchase travel and accommodation for the Supplier's Trainer.

**(e)** Where the Customer requests the Supplier to provide the Service outside of Europe, or within Europe, the Customer shall provide, or pay directly for travel and accommodation of the Supplier's Trainer.

### 3. The Purchase Process & Formation of the Contract

#### 3.1. Contractual Components

- (a)** This Framework Contract, and;
- (b)** The Supplier's Offer, and;
- (c)** The Customer's Order, and in exceptional circumstances;
- (d)** A Service Contract, and;
- (e)** The Supplier's Invoice

#### 3.2. The Offer made by the Supplier

- (a)** The Supplier may respond to the invitation from the Customer with an Offer.
- (b)** An Offer is a notice composed by the Supplier and remitted to the Customer that sets out the terms and conditions of the specific Service, that might include the type of Training Service that shall be supplied, the location where the service shall be supplied, the price of the service, the start date and term of the Service and details of any other matter particular to that specific Contract. See clause 3.2 (c).
- (c)** The Supplier shall set an Offer price for the Training that shall include the Fee for the Trainer and the Course Materials.
- (d)** The Supplier's Fee for the Trainer is fixed on a day rate basis. The Trainer Fee is non-negotiable.
- (e)** Where the Service is provided in the UK, the Offer Price might include travel and accommodation Fees for the Supplier's Trainer.
- (f)** Where the Service is provided outside of Europe, or within Europe, the Offer Price shall not include the Fee for the Supplier's Trainer travel and accommodation; Travel and accommodation for the Supplier's Trainer shall be provided by the Customer.
- (g)** The Offer shall not include Value Added Tax unless explicitly stated within the Offer.

Version number: 8

Distribution: Worldwide

- (h)** An offer is not binding unless it is explicitly labelled as an Offer or as a Quotation.
- (i)** An Offer is valid for 30 calendar days unless otherwise agreed by the Parties.
- (j)** At the request of the Customer, the Supplier might agree to extend the valid term of an Offer.
- (k)** Any extension to the valid term shall be determined by the Supplier and shall vary depending on the proximity of the start date of the Service. The closer the start date, the shorter the extension term.
- (l)** Where the valid term of an Offer, or any pursuant extension term, expires, and where the Customer has placed no Order or other notice of acceptance, the Supplier shall have the right to Offer the service to any other Customer.
- (m)** The Supplier is not obliged to notify the Customer of pending or actual expiration of an Offer.

### 3.3. The Order made by the Customer

- (a)** The Order is Acceptance of the Offer.
- (b)** The Order shall be a Notice of Acceptance raised by the Customer and remitted to the Supplier.
- (c)** Where it is the Customer's policy to issue Purchase Order Numbers, an Order is not binding upon the Supplier where the Order has no Purchase Order.
- (c)** An Order is legitimate only when received and accepted by the Supplier.
- (d)** Each individual Offer and Order is a separate Service Contract, governed by the terms and conditions of this Framework Contract.
- (e)** Any terms and conditions set out the Customer's Order, may not vary from those set out in the Supplier's Offer or with-in this Framework Contract.
- (f)** The Supplier has the right to reject an Order that the Supplier has deemed to have varied from the Offer.
- (g)** The Customer has no right to accept some parts of the Offer and the Framework Contract and reject, or not comply with, any other part, unless agreed, in writing, by variation in a Service Contract, so that ;
- (h)** The Customer accepts all the terms and conditions of the Contract, and that;
- (i)** Acceptance on the part of the Customer is a declaration of agreement with all the terms and conditions within the Contract, and that;

Version number: 8

Distribution: Worldwide

**(j)** The Customer acknowledges that it has not relied on any statement, promise or representation made or given by, or on behalf of, the Supplier which is not set out in the Contract.

### 3.4. Purchase Order Number

**(a)** Where the Customer has no policy to issue a Purchase Order Number with an Order, the Customer is obliged to advise the Supplier at the time that the Order is placed.

**(b)** Where the Customer has a policy to issue a Purchase Order Number, the Order shall display the Purchase Order Number, or;

**(c)** The Customer shall be advised by the Supplier, prior to the Customer placing an Order, that the Order shall be conditional upon receipt of the Purchase Order Number by the Supplier, and;

**(d)** Acceptance of the Customer's Order is provisional and non-binding until such time that the Purchase Order Number is received by the Supplier, so that;

**(e)** Upon receipt of the Customer's Purchase Order Number, the Supplier shall have the right to accept the Order and enter into a binding contract with the Customer.

**(f)** Where it is the Customer's policy to issue a Purchase Order Number, and where the Customer does not provide a Purchase Order Number, the Supplier reserves the right to reject the Order.

### 3.5. Agreement between the Parties

**(a)** Agreement between the parties is reached upon receipt of the Customer's Order, by the Supplier and where the Order has not deviated from the Offer.

**(b)** In exceptional circumstances, where variation from this Framework Contract is agreed between the Parties, the Customer shall raise a Service Contract that shall set out the terms and conditions negotiated by the Parties that govern the specific Service.

**(c)** The Contract, that is this Framework Contract, the Offer and the Order are essential to the entire agreement between the parties, unless a separate Service Contract is raised by the Supplier.



Version number: 8

Distribution: Worldwide

## 4. Rights and Obligations of the Supplier

### 4.1. Supplier Rights

- (a)** The Supplier has the right to receive payment from the Customer prior to the delivery of the Service.
- (b)** The Supplier reserves the right to receive payment of an invoice by means of electronic transfer.
- (c)** The Supplier reserves the right to with-hold a Service where the Customer has not fulfilled any obligation under a previous Contract.
- (d)** The Supplier shall have the right to amend the Service where necessary to comply with any applicable law, safety requirement, or where there is no material effect to the nature or quality of the Service.
- (e)** The Supplier shall have the right to amend the Service where a technology supplier modifies, or in any way alters their service, so that it might impact upon the Training.
- (f)** The Supplier reserves the right to eject any Delegate from the Training Course who, in the opinion of the Supplier, perpetrates any unreasonable behaviour.
- (g)** The Supplier reserves the right to assign or sub-contract its obligations or rights under the Contract to a competent Third Party, in whole or in part.
- (h)** The Supplier reserves the right to be remunerated for the supply of a Classroom Training Unit (CTU), where the Parties have agreed that the Supplier shall provide a CTU to facilitate the delivery of the Service.
- (i)** The Supplier reserves the right to determine the type and brand of all assets within the CTU, where the Parties have agreed that the Supplier shall provide a CTU to facilitate the delivery of the Service.
- (j)** The Supplier has the right to be provided by the Customer with advance purchase of travel and accommodation for the Trainer, where the Service shall be delivered outside of Europe, or within Europe.
- (k)** The Supplier has the right to cancel, a Service, without any other obligation, 30 calendar days prior to the first day of delivery of the Service.

### 4.2. Supplier Obligations

- (a)** The Supplier is obliged to supply the Service to the Customer in accordance with the Contract in all material respects.
- (b)** The Supplier warrants to the Customer that the Service shall be provided using reasonable care and skill.

Version number: 8

Distribution: Worldwide

**(c)** The Supplier is obliged to ensure that the Service complies with all statutes, regulations, bye-laws, standards, codes of conduct and any other rules relevant to the provision of the Service.

**(d)** During the supply of the Service, the Supplier is obliged to provide an appropriate Training environment with a suitable internet connection.

**(e)** The Supplier is obliged to supply a reliable laptop computer to each Delegate, where:-

**(i)** each laptop computer shall have installed a Microsoft Windows operating system, and;

**(ii)** all Operating System updates have been applied, and;

**(iii)** each laptop computer is physically clean, and;

**(iv)** each laptop is clean of any previous user data, and;

**(v)** each laptop computer has a screen size that is no less than 15 inches, and;

**(vi)** each laptop computer is scanned for malware and verified free of any and all malicious applications.

## 5. Rights and Obligations of the Customer

### 5.1. Customer Rights

**(a)** The Customer has the right to receive the Service as agreed in the Contract.

**(b)** The Customer has the right to assign another Delegate to attend the training where the other Delegate is an employee of the Customer.

### 5.2. Customer Obligations

**(a)** The Customer is obliged to ensure that the terms of an Order are complete and accurate.

**(b)** The Customer is obliged to co-operate with the Supplier in all matters relating to the Service.

**(c)** The Customer is obliged to satisfy a Supplier invoice by means of electronic transfer.

**(d)** Upon request by the Supplier and prior to the commencement of the Service, the Customer is obliged to provide to the Supplier the first name, last name, e-mail address and the relationship with the Customer for each Delegate that shall attend the Training.

**(e)** The Customer, by providing to the Supplier, with personal data relating to their employees or agents, confirms that they are entitled to disclose that data to the Supplier under the terms of the Data Protection Act 1998 and related legislation and that the Supplier is entitled to process such data for the purposes of providing the purchased Service.

Version number: 8

Distribution: Worldwide

**(f)** The Customer is obliged to communicate effectively with the Supplier, so that communication shall be with the Supplier's Training Coordinator, with exception where;

**(g)** The Customer might require direct contact with a trainer to discuss a specific issue, the Customer shall request the Supplier's Training Coordinator to facilitate contact with the trainer, so that the specific issue is addressed, and thereafter, the Customer shall desist and make no further contact with the trainer, so that on-going communication is between the Supplier's Training Coordinator and the Customer.

**(h)** The Customer shall not directly or indirectly approach any personnel of the Supplier for the purpose of obtaining any service similar to or competitive with the Service, and;

**(i)** The Customer shall inform the Supplier immediately upon receipt of any communication by the Supplier's personnel or representative Third Party, with a view to providing any Service similar to, or competitive, with the Service directly supplied to them. In the event that any communication as such is received, the Customer agrees not to engage such personnel, or representative Third Party, to provide a Service directly.

**(j)** The Customer is obliged to provide facilities, that shall be:-

**(i)** a room for the delivery of the Service, that is suitably lit and ventilated and where each Delegate is provided with a table or desk and a chair;

**(ii)** a table or lectern that shall accommodate the trainer's laptop computer;

**(iii)** a wall or stand mounted large screen (minimum 42 inch) display with minimum 3 meter HDMI cable, so that each Delegate may have direct line of sight of the large screen, or;

**(iv)** as an alternative to the large computer screen, a projector with screen and appropriate cabling.

**(k)** Where the Customer provides computers and internet connection, the Customer is obliged to supply:-

**(i)** a strong and reliable internet connection for the Trainer and all Delegates;

**(ii)** a reliable computer for each Delegate;

**(iii)** the latest version of the Firefox web browser installed on each computer.

**(l)** Where the Supplier provides a Classroom Training Unit, the Customer is obliged to:-

**(i)** allow, in advance, the Supplier to conduct a Site Survey, and

**(ii)** remunerate the Supplier for the Site Survey, or

**(iii)** conduct a site survey of the room assigned for the delivery of the Service, so that, as directed by the Supplier, there shall be a test of up to 3 different cellular data providers.

Version number: 8

Distribution: Worldwide

- (iv)** receive and store securely, any container, sent by the Supplier to the Customer that may be delivered, in advance and by courier or other transportation service,
- (v)** designate one person that shall be responsible for the receipt, safe storage and dispatch of the containers.
- (vi)** provide insurance against damage including, but not limited to fire and water damage to the CTU and any of it's contents and and theft
- (vii)** provide insurance against theft of the CTU or any part thereof
- (viii)** provide access, on demand of the Supplier's representative, to the Supplier's containers
- (ix)** provide access to the training room at least 90 minutes before the training is scheduled to commence.
- (x)** after the delivery of the Service, to securely store and then release the CTU to a courier or other transportation service designated by the Supplier.

### 5.3 Customer Default

- (a)** Where the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer and specifically by a Delegate, so that failure by the Customer to perform any relevant obligation; this is a Customer Default and may permit the Supplier to terminate the Contract.
- (b)** The Supplier shall, without limiting its other rights or remedies, have the right to suspend performance of the Service, until the Customer remedies the Customer Default, and
- (c)** The Supplier shall rely on a Customer Default to relieve it from the performance of any of its obligations, to the extent that the Customer Default prevents or delays the Supplier's performance of any of its obligations.
- (d)** The Supplier shall not be liable for any costs or losses sustained or incurred by a Customer arising directly or indirectly from the Supplier's failure, or delay, to perform any of its obligations as set out in this clause 5.3.
- (e)** The Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

Version number: 8

Distribution: Worldwide

## 6. Fees, Payment Terms and Conditions

### 6.1 Fees

**(a)** The Fee for the Service shall be set out in the Supplier's Offer.

### 6.2. Payment Terms

**(a)** The Supplier's invoice shall specify the payment due date.

**(b)** The payment due date is the date upon which the Customer shall receive cleared funds into its bank account, therefore

**(c)** The Customer might initiate the transfer of funds prior to the payment due date.

**(d)** The standard payment term is 30 calendar days from the date that the Supplier raises the invoice. However;

**(e)** The Supplier reserves the right to modify the payment term. See clause 4.1. (a) of this Framework Contract.

**(f)** The payment term is of the essence to the Contract.

### 6.3 Payment Conditions

**(a)** It is a fundamental condition of the Contract that the Customer settles the Supplier's invoice within the term specified on the invoice.

**(b)** The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law, and;

**(c)** The Customer shall not be entitled to assert any credit, set-off or counter-claim against the Supplier in order to justify withholding payment of any such amount in whole or in part.

**(d)** Where the Customer purchases the Service to be delivered outside Europe, or within Europe, the Customer shall cover the cost, for all trainers, of all expenses, that shall include all travel, including travel to and from airports, accommodation, including pre-flight accommodation, and three meals each day including beverages, for the duration for the total Service, including all expenses incurred during any break in the Service be that for a weekend, public holiday and any break required by the Customer.

#### 6.3.1. VAT

**(a)** The Supplier's Offer shall not include value added tax (VAT).

**(b)** Where, for VAT purposes, any taxable supply is made under the Contract, the Supplier shall raise a VAT invoice.

Version number: 8

Distribution: Worldwide

**(c)** The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts, in respect of VAT, as are chargeable on the supply of the Service.

**(d)** VAT shall be charged at the prevailing rate.

**(e)** The VAT payment shall be due at the same time as the payment for the supply of the Service, unless the VAT invoice is a separate invoice with a variation of the term.

### 6.3.2. Payments by Cheque

**(a)** Where the Parties agree by variation of this Framework Contract that payment made by means other than electronic transfer, the following conditions might apply:

**(b)** Where the Supplier is paid by cheque, the Supplier shall apply an administration fee to the invoice of £25.

**(c)** Where Customer's cheque is issued on a bank incorporated outside the United Kingdom, the Supplier shall apply an administration fee to the invoice of £50.

**(d)** Cheques drawn on a UK bank account shall be delivered to the Supplier, 7 calendar days before the invoice due date.

**(e)** Cheques drawn on a bank account outside the UK, shall be delivered to the Supplier, 45 calendar days before the invoice Due Date.

## 7. Breach of Contract and Remedies

### 7.1. Breach

**(a)** The Customer is in breach of the Contract where payment has not been received by the Supplier within the term specified in the Supplier's invoice.

**(b)** The Customer is in breach of the Contract where there is a failure on the part of the Customer to comply with any condition that survives the Contract.

### 7.2. Remedies

**(a)** Where there is a breach of the Supplier's payment term, the Supplier has the right, in compliance with the late Payment of Commercial Debts (Interest) Act 1998, to charge a fee and interest at 8% on the amount due, accruing daily from the Due Date.

**(b)** The Supplier has the right to suspend performance of the service until such time that a satisfactory remedy is applied.

**(c)** Where no remedy is provided on the part of the Customer, the Supplier has the right to terminate the Contract. See section 13 of this Framework Contract.

Version number: 8

Distribution: Worldwide

## 8. Cancellation

### 8.1 By the Customer

**(a)** Where a Customer cancels a Service, the first priority of the Supplier shall be to re-schedule the Service to a later date.

**(b)** Where a Course is re-scheduled, the price charged for the re-scheduled Service may be the same as the cancelled Service, unless all Training Services, Offered by the Supplier, have been subject to a price change since the commencement of the Contract.

**(c)** Where, within 28-15 calendar days of the first day of the course, a Customer cancels a Service and that Service is not re-scheduled, the Supplier shall recover from the Customer, with a single invoice and with-in a 30 calendar days payment term, all otherwise unrecoverable travel and accommodation costs incurred by the Supplier.

**(d)** Where, within 14-8 calendar days of the first day of the Course, a Customer cancels a Service and that Service is not re-scheduled, the Supplier shall recover, from the Customer, with a single invoice and a 30 calendar days payment term, all unrecoverable travel and accommodation costs incurred by the Supplier, and 25% of the Service fee.

**(e)** Where, within 7 calendar days of the first day of the training, a Customer cancels a Service and that Service is not re-scheduled, the Supplier shall recover from the Customer, with a single invoice and a 30 calendar days payment term, all unrecoverable travel and accommodation costs incurred by the Supplier, and 50% of the training fee.

**(f)** In the event of cancellation by the Customer, any fees paid on a Commencement Date Invoice are not recoverable by the Customer, except where the Supplier is able to recover sums paid for travel and accommodation.

**(g)** In the event of a reschedule of a Service, and where the Supplier is not able to transfer the travel and accommodation costs to the new schedule, the Customer is obliged to pay all costs of travel and accommodation incurred by the Supplier, in any jurisdiction.

### 8.2 By the Supplier

**(a)** The Supplier has the absolute right, and without liability, to cancel the Service 30 calendar days prior to the commencement of the Service.

**(b)** The Supplier reserves the right to cancel the Service where no payment by the Customer has been received by the Supplier.

**(c)** In exceptional circumstances, where a payment has been received by the Supplier, the Supplier reserves the right to cancel a course, and in that event:

Version number: 8

Distribution: Worldwide

- (i) the Supplier shall liaise with the Customer to reschedule the course, and;
- (ii) where rescheduling is not possible, the payment shall be refunded in full.

## 9. Intellectual Property Rights

- (a) All Intellectual Property Rights in, or arising out of, or in connection with the Service shall be owned by the Supplier.
- (b) The Customer acknowledges that, in respect of any Third Party Intellectual Property Rights, the Customer's use of any such material is conditional upon the Supplier obtaining a written licence from the relevant licensor on such terms as shall entitle the Supplier to licence such rights to the Customer.
- (c) All Course Materials are the exclusive property of the Supplier and shall be considered as Intellectual Property under section 9 of this Framework Contract.
- (d) Intellectual property shall include 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.
- (e) The Intellectual Property section 9 of this Framework Contract, shall survive both the fulfilment and termination of the Contract in perpetuity.

## 10. Confidentiality

- (a) Both Parties to the Contract shall respect, acknowledge and agree that any and all information concerning the other's business and the terms and conditions of the Contract, is Confidential Information.
- (b) Both Parties agree that they shall not permit the duplication, use or disclosure of any such Confidential Information to any person, except where
- (c) The other person is an own employee or Third Party where the same requires such information for the performance of the Service, unless;
- (d) Such duplication, use or disclosure is specifically authorised by the other Party, or is required by the application of the prevailing law.



Version number: 8

Distribution: Worldwide

- (e)** Specific authorisation for duplication of Confidential Information may be required in writing, by either Party, prior to the duplication process.
- (f)** Confidential Information does not include information which, at the time of disclosure is or comes into the public domain, other than by the unauthorised act of the Disclosing Party.
- (g)** The Parties shall take all reasonable steps to ensure that their employees, or Third Parties maintain, with no limitation, the confidence of all Confidential Information.
- (h)** Specifically, a Receiving Party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the Disclosing Party, its employees, or Third Parties, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain.
- (i)** Specifically, a Receiving Party shall restrict disclosure of such Confidential Information to its employees, or Third Parties as 'need to know' for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, and Third Parties are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.
- (j)** The Customer undertakes to keep all Publications and materials created by the Supplier confidential and shall not copy, publish or distribute any such information, materials or documents to any third party without the prior written consent of the Supplier, except where such information is in the public domain or the Customer is required to disclose such information by law.
- (k)** The confidentiality section 10 shall survive the fulfilment and the termination of the Contract in perpetuity.

## 11. Limitation of Liability

### 11.1 Nothing in this Contract shall limit or exclude the liability of the Supplier for:

- (a)** death or personal injury caused by its negligence, or the negligence of its employees and Third Parties.
- (b)** fraud or fraudulent misrepresentation; or
- (c)** breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

Version number: 8

Distribution: Worldwide

### 11.2 Subject to clause 11.1:

**(a)** the Supplier shall, under no circumstances whatever, be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under, in connection with or as a consequence of the Service supplied and the conditions of this Contract, and;

**(b)** the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including the liability of the Supplier's Third Parties and employees in respect of any services provided to the Customer by the Supplier, in connection with this Contract, shall in no circumstances exceed the price of the Services.

**(c)** the Supplier shall not be liable to the Customer in respect of any event of default for loss of profits, goodwill or any type of indirect or consequential loss, including the acts or omissions of the Customer, even where the Supplier had been advised of the possibility of the Customer incurring the same.

**(d)** The Supplier shall provide advice in good faith, but the Supplier shall not be liable for any outcomes arising from the use of that advice, by the Customer.

**(e)** The Customer shall, to the fullest extent permitted in law, indemnify and hold harmless the Supplier and its Third Parties from and against any and all claims, damages, losses or expense, arising out of or resulting from any injury or damage sustained on or to the premises of the Customer or premises, excepting those where the Customer is directly responsible.

**11.3 Except**, as set out in the Conditions of this Framework Contract, all warranties, other conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

**11.4 The Limitation of Liability section 11 shall survive termination of the Contract.**

## 12. Insurance

**(a)** The Supplier shall ensure that it has in place at all times suitable and valid insurance. **(b)** Public liability insurance shall indemnify the Supplier up to a value of 10 million pounds.

**(c)** Professional liability insurance shall indemnify the Supplier up to a value of 2 million pounds.

**(d)** The policy shall indemnify the Supplier for the activity of any Third Party delivering the Service on behalf of the Supplier.

Version number: 8

Distribution: Worldwide

### 13. Termination

- (a)** Where a Delegate commits a material breach of the Contract, the Supplier without limiting its other rights or remedies, may terminate the Contract with immediate effect, by verbal notice to the Party in breach.
- (b)** Where such a breach is remediable, the Delegate might be provided by the Supplier a term within which to remedy that breach, and during this term, the termination is set aside.
- (c)** Where the remedy fails, the termination of the Contract is enforceable from the date and time of the original notice of termination.
- (d)** Without limiting its other rights or remedies, the Supplier shall have the right to suspend or terminate performance of the Service Contract, where the Customer fails to meet the obligations set out in section 5 of this Framework Contract.
- (e)** Failure on the part of the Customer to make any payment within the specified term, is a breach of Contract and, where there is no satisfactory remedy, there is grounds for termination of the Contract, without notice, on the part of the Supplier.

### 14. Consequences of Termination

On termination of the Contract for any reason:

- (a)** The Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b)** The Customer shall return all of the Course Materials which have not been fully paid for. Where the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and shall not use them for any purpose not connected with this Contract;
- (c)** The accrued rights, remedies, obligations and liabilities of the Parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d)** Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

Version number: 8

Distribution: Worldwide

## 15. Force Majeure

**(a)** The Supplier shall be entitled to delay or cancel delivery of any services or to reduce the amount of service delivered where it is prevented from or hindered or delayed in the provision of services through any circumstances beyond its reasonable control; including strike, lock-out or other industrial dispute (whether involving the workforce of the Supplier or any other party), accident, war, government action, compliance with any law or governmental order, rule, regulation or direction, national emergency, act of terrorism, threat of terrorism, protest, riot, common assault, civil commotion, malicious damage, explosion, flood, epidemic, fire, storm, earthquake, tsunami, or significant meteorological event, wrongful arrest, food poisoning or other acute medical condition, family bereavement, witness to a criminal event or acute medical event where first aid and assistance to law enforcement is provided, failure of a utility service or transport network, breakdown of an elevator or other plant or machinery or default of its Third Parties.

**(b)** The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a force majeure event.

**(c)** Where a force majeure event prevents the Supplier from providing the Service, the Supplier shall, without limiting its other rights or remedies, have the right to terminate the Contract with immediate effect by any voice communication, messaging service or any other written notice to the Customer, whether direct or indirect.

## 16. Assignment and Subcontracting

**(a)** The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any Third Party.

**(b)** The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

## 17. Notices

**(a)** Any notice or other communication required to be given to a Party under or in connection with this Contract shall be in writing and shall be delivered to the other Party by e-mail, telephone, messaging service, or other electronic means including the Supplier's CRM.

**(b)** Where a document is uploaded to the Supplier's CRM, the other Party shall notify the recipient of the upload by e-mail or another method that receives acknowledgement by the recipient to the sender.

Version number: 8

Distribution: Worldwide

- (c)** Where transmitted by e-mail, a communication shall be deemed to have been duly received where there is no delivery error message or bounce back from the recipient's mail server.
- (d)** The sender of an e-mail message shall not rely on a delivery receipt or any other successful transmission report.
- (e)** Where time is not of the essence, the Parties have the right to communicate by courier or other recognised postal service to the receiving Party's principal place of business.
- (f)** Notifications and other communications sent by courier or pre-paid postal service shall be deemed to have been duly received when delivered to the other Party's registered address, trading address or other specified mailing address.
- (g)** Where a notification or other communication is served in person by the other Party, service shall be to the registered or other trading address of the Receiving Party.
- (h)** This section 17 shall not apply to the service of any proceedings or other documents in any legal action.
- (i)** For the purposes of this clause, "writing" shall include e-mails and for the avoidance of doubt notice given under this Contract shall be validly served if sent by e-mail.
- (j)** A Notice maybe signed by an authorised person and where an e-mail or other document, including this Framework Contract and a Service Contract are not signed, they possess legal authority by their very existence and effective communication to the other party.

## 18. Waiver

- (a)** A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default.
- (b)** No failure or delay by a Party in exercising any right or remedy under the Contract or by law, shall constitute a waiver of this section 18, or of any other right or remedy, nor shall it preclude or restrict its further exercise.
- (c)** No single or partial exercise of any such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (d)** Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

Version number: 8

Distribution: Worldwide

## 19. Severance

**(a)** Where a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

**(b)** Where any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal, and where that provision might be set aside, the provision shall apply with the minimal and reasonable modification necessary to make it legal, valid and enforceable.

## 20. Relationship of the Parties

**(a)** Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the Parties, nor constitute any Party the agent of another Party for any purpose.

**(b)** No Party shall have authority to act as agent for, or to bind, the other Party in any way.

**(c)** The Supplier has the right to engage a Third Party to represent the Supplier in any capacity of the Supplier's choice.

## 21. Third Parties

**(a)** A person who is not a Party to the Contract, shall not have any rights under or in connection with the Contract.

**(b)** The Supplier shall be entitled to engage a Third Party to perform the Service and any of the obligations undertaken by the Supplier.

**(c)** The Third Party may be any other person within the Supplier's group of Companies or any suitably qualified, experienced and skilled sub-contractor be they an individual or registered legal entity.

**(d)** Any act or omission of such Third Party shall, for the purposes of the Contract, be deemed to be an act or omission by the Supplier.

**(e)** No part of this Contract is intended to confer rights on any Third Party and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

**(f)** Subject to this section 21, the Contract shall continue and be binding on the transferee, successors and assigns of either Party as required.

Version number: 8

Distribution: Worldwide

## 22. Variation & Versioning

- (a)** The Supplier may at any time, make any variation to this contract, including the introduction of any additional terms and conditions.
- (b)** The variation shall incur a version number that shall reflect the magnitude of the variation.
- (c)** Where a variation to the material or meaning of the contract, shall version shall incur a prime number change.
- (d)** Where a variation correction is a minor correction of syntax, spelling or grammar, with no material effect, the version shall incur decimal number.
- (e)** A Service Contract shall pertain to the prevailing version of this Framework Contract.
- (f)** The Parties shall agree, in writing, that a variation to this Framework Contract shall apply to the entire agreement.
- (g)** The Supplier is obliged to publish the current version of this Framework Contract on its website.

## 23. Entire Agreement

- (a)** This Framework Contract is the basis for the Contract between the Parties.
- (b)** This Framework Contract, the Supplier's Offer, the Customer's Order, any other explicit and written agreement and the Supplier's invoice, where combined together, shall constitute the entire agreement between the Parties.
- (c)** In exceptional circumstances, the Entire Agreement may be published in a single document, that is a Service Contract.
- (d)** A Service Contract may not be modified except by an additional instrument in writing and with agreement expressed by communication (e-mail) by the duly authorised representative of the Customer.
- (e)** The Parties acknowledge that the Contract does not allow either Party to rely on any representation, warranty or other provision except as expressly provided in the Framework Contract, the Offer, the Order and Supplier's invoice or the Service Contract.
- (f)** All conditions, warranties or other terms included within this Framework Contract and explicit by statute are included to the fullest extent permitted by law.
- (g)** All conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

Version number: 8

Distribution: Worldwide

## 24. Governing Law, Jurisdiction and Dispute Resolution

**(a)** Any dispute or claim arising out of or in connection with the Contract or subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the Parties irrevocably submit to the exclusive jurisdiction of recognised mediation services and courts of England and Wales.

**(b)** The jurisdiction of this contract applies to legal entities and naturalised persons in any jurisdiction.

**(c)** The Parties shall attempt to resolve any dispute arising out of or relating to a Contract, through negotiation between their appointed representatives who have the authority to settle such disputes.