



Training Terms and Conditions

BACKGROUND

SDS has agreed to provide Training to the Customer's personnel from time to time either under the terms of Support Agreement or as an ad hoc Customer purchase, in either case in accordance with these terms and conditions ("**Terms**").

1 DEFINITIONS AND INTERPRETATION

1.1 In these Terms and the Background the following words shall have the following meanings:

"Business Day" means any day other than Saturdays, Sundays or public holidays in England;

"Charges" means the sums payable by the Customer for the Training, as detailed in the Training Price list or as otherwise agreed by SDS in writing;

"Customer" means the person or firm who purchases the Training from the SDS, as more particularly described in the Support Agreement and/or SDS' invoice in respect of the Charges;

"Force Majeure Event" means an event (or circumstances) beyond the control of the parties, preventing one or both parties from fulfilling their obligations under these Terms including, without limitation, acts of God, war, pandemic, government orders, industrial disputes, protests, fire, flood, storm, tempest, explosion, an act of terrorism and/or national emergencies;

"Invoice Date" means the date of the invoice in respect of the applicable Charges;

"Software" means any software program(s) that is developed by SDS and licenced to the Customer;

"Support Agreement" means the software support agreement entered into between the Customer and SDS;

"Support Services" means the services to be provided by SDS in respect of the Software, as more particularly described under the Support Agreement;

"Training" means the training to be provided by SDS as part of any Support Services in respect of the Software or any training that is otherwise purchased by the Customer in respect of the Software;

"Training Price List" means SDS' pricing schedule in respect of the Training it provides (including as amended by the SDS from time to time); and

“Training Provider” means any third party delivering the Training when this is not SDS itself.

1.2 In these Terms unless the context requires otherwise:

- 1.2.1** to the extent applicable, if there is any inconsistency between any of the provisions of these Terms and the provisions of the Support Agreement in relation to the Training, the provisions of these Terms shall prevail as between the parties;
- 1.2.2** the singular includes the plural and vice versa and any gender includes any other gender;
- 1.2.3** references to clauses are to clauses of these Terms;
- 1.2.4** any reference to an enactment, order, regulation or other similar instrument includes a reference to that enactment, order, regulation or instrument as from time to time amended, extended or re-enacted; and
- 1.2.5** references to persons include bodies corporate, unincorporated associations and partnerships, and any reference to the parties include their respective successors, permitted assigns and personal representatives.

1.3 If applicable, these Terms are to be read in conjunction with the Support Agreement and are not to be interpreted as superseding or replacing any relevant provisions of the Support Agreement.

1.4 The headings of these Terms are for ease of reference only and shall not affect its interpretation or construction.

2 TRAINING SERVICES

2.1 Unless otherwise agreed with SDS in writing, the Customer agrees that these Terms shall apply in respect of the Training and no other terms and conditions that the Customer is seeking to impose shall apply in respect of the Training.

2.2 The Customer acknowledges that:

- 2.2.1** from time to time the Training may be provided in conjunction with selected Training Providers and that SDS shall use its reasonable endeavours to ensure that such Training Providers are suitably qualified and accredited to deliver the relevant Training;
- 2.2.2** the content of any schedules or documents relating to the Training is intended for guidance only and do not form part of any contract between SDS and the Customer;
- 2.2.3** SDS reserves the right to make changes, without notice, to the content and delivery of the Training in its absolute discretion as it sees fit;
- 2.2.4** SDS reserves the right to refuse admission to provide the Training to any personnel of the Customer that SDS consider in their absolute discretion to be obstructive during the course of providing the Training, does not meet any prerequisites required for the Training or is otherwise deemed unsuitable by SDS for the applicable Training;
- 2.2.5** SDS shall not be required to provide any additional or further Training to any of the Customer’s personnel who arrive late or who are absent from any session;

- 2.2.6** any further Training required by the Customer over and above that which is provided for as part of SDS' standard Support Services offering or otherwise agreed with the Customer will be charged to the Customer at SDS' rates applicable from time to time for work undertaken on a time and materials basis; and
- 2.2.7** SDS may amend or update these Terms at any time which shall apply from the time that SDS either notifies the Customer of the changes (email to suffice) or makes the updated or amended Terms available via its website. For the avoidance of doubt, where the Customer has already booked the applicable Training, the Terms in force at the time of booking shall apply in respect of such booking.
- 2.3** SDS and any Training Providers will provide the Training with reasonable skill and care to the standard expected of a qualified and competent training provider, however, all other conditions or warranties whether express or implied as to the quality of the Training are hereby expressly excluded.
- 2.4** If the Training provided does not conform to the standard set out under clause 2.3, SDS shall in its absolute discretion make good the performance by either:
- 2.4.1** re-performing the Training; or
- 2.4.2** refunding the Customer the applicable Charges,
- subject always to availability to re-perform the Training and the performance being proved to be unsatisfactory by the Customer to the reasonable satisfaction of SDS.
- 2.5** The obligation under clause 2.4 shall not apply where:
- 2.5.1** the part of the Training concerned was based on information supplied by or varied from the normal Training at the specific request of the Customer; or
- 2.5.2** the Customer fails to notify SDS of the unsatisfactory Training within 10 Business Days of providing the Training.

3 BOOKING

- 3.1** SDS and the Customer shall mutually agree a time and delivery method, which may be on site or remote as applicable to the service purchased, for the Training to be provided. SDS shall use reasonable endeavours to accommodate all reasonable requests of the Customer relating to the time and delivery method for the provision of the Training.
- 3.2** The Customer agrees that any required Training must be booked to be provided by SDS within 12 months from Invoice Date. Save in respect to where a Force Majeure Event has occurred, the Customer agrees that where it has failed to book the applicable Training to take place within the required 12 months period, SDS shall not be under any obligation to provide the outstanding Training and the Customer will not be entitled to a refund of any Charges that relate to the outstanding Training.

4 FEES & CANCELLATION

- 4.1** Unless subject to a separately agreed arrangement, the price payable for the Training shall be charged by SDS at the rates set out in its Training Price List. SDS shall invoice the Customer in respect of the Training in advance of providing the applicable Training,

which shall be payable by the Customer within 30 days of the Invoice Date. All Charges are exclusive of VAT, which will be charged at the appropriate rate.

- 4.2** The Customer shall pay all Charges in relation to the Training prior to the commencement of the Training and, for the avoidance of doubt, SDS shall not be required to provide the Training until all the applicable Charges in relation to the Training have been paid in full by the Customer.
- 4.3** Once a suitable time and place for the Training has been agreed between the parties in accordance with clause 3.1, the Customer shall be entitled to reschedule the training free of charge, provided that:
- 4.3.1** the Customer provides SDS with at least 10 Business Days' written notice (email to suffice), prior to the agreed date for providing the Training, of its request to reschedule the Training;
 - 4.3.2** the Customer's proposed rescheduled date for the Training to be provided will still take place within the 12 months period stipulated under clause 3.2; and
 - 4.3.3** the Customer shall only be entitled to exercise the option to reschedule the applicable Training without charge twice.
- 4.4** Where the Customer fails to provide a minimum of 10 Business Days' notice, or seeks to reschedule the Training having already exercised its option to do so twice before, the Customer agrees to pay an additional admin fee to SDS which is equivalent to 15% of the applicable Charges. For the avoidance of doubt, SDS shall be under no obligation to provide any Training until the additional admin fee has been duly paid by the Customer (if applicable).

5 CONFIDENTIALITY

- 5.1** The Customer acknowledges and agrees that any and all information concerning SDS' business affairs and/or the content of the Training is strictly confidential (hereinafter referred to as '**Confidential Information**'). The Customer agrees that it shall not permit the duplication, use or disclosure of any such Confidential Information to any person (other than its own employee, agent or sub-contractor where the same requires such information to operate the Software) unless such duplication, use or disclosure is specifically authorised in writing by SDS, or is required to do so due to a legal obligation. Confidential Information does not include information, which at the time of disclosure is generally known by the public (other than by the unauthorised act of the Customer). The Customer shall take all reasonable steps to ensure that their employees, agents and sub-contractors keep the Confidential Information confidential.

6 FORCE MAJUERE

- 6.1** Neither party shall be liable to the other party for any delay or non-performance of its obligations under these Terms to the extent that its performance is interrupted or prevented by a Force Majeure Event. Such delay or failure shall not constitute a breach of these Terms and the time for performance shall be extended by a period equivalent to that during which performance is so prevented.

7 LIMITATION OF LIABILITY

- 7.1** Nothing in these Terms limits any liability which cannot legally be limited, including but not limited to liability for:

- 7.1.1** death or personal injury caused by negligence;
 - 7.1.2** fraud or fraudulent misrepresentation; and
 - 7.1.3** breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.2** Subject to clause 7.1, SDS' total liability to the Customer for any and all loss or damage suffered by the Customer in connection with these Terms shall not exceed 100% of the Charges.
- 7.3** Subject clause 7.1, this clause 7.3 sets out the types of loss that are wholly excluded:
 - 7.3.1** loss of profits;
 - 7.3.2** loss of sales or business;
 - 7.3.3** loss of agreements or contracts;
 - 7.3.4** loss of anticipated savings;
 - 7.3.5** loss of use or corruption of software, data or information;
 - 7.3.6** loss of or damage to goodwill; and
 - 7.3.7** any indirect or consequential loss.

8 VARIATION

- 8.1** Except as set out in these Terms, no variation of these Terms shall be effective unless it is in writing and signed by SDS.

9 WAIVER

- 9.1** A waiver of any right or remedy under these Terms or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under these Terms or by law shall prevent or restrict the further exercise of that or any other right or remedy.

10 SEVERANCE

- 10.1** If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms. If any provision or part-provision of these Terms deleted under this clause 10.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11 NOTICE

- 11.1** Any notice given to a party under or in connection with these Terms shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in

any other case) or sent by email to the address specified by the applicable party from time to time.

11.2 Any notice shall be deemed to have been received:

11.2.1 if delivered by hand, at the time the notice is left at the proper address;

11.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

11.2.3 if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

11.3 This clause 11 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12 THIRD PARTY RIGHTS

12.1 Unless it expressly states otherwise, these Term does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms.

13 GOVERNING LAW

13.1 These Terms and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

14 JURISDICTION

14.1 SDS and the Customer irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or its subject matter or formation.