

## Terms and Conditions

### IN-HOUSE TRAINING TERMS OF BUSINESS FOR THE PROVISION OF TRAINING SERVICES

#### 1. TERMS OF BUSINESS

These terms and conditions shall apply to any in-house or Client specific Contract between Ashbury Educational Services Limited, hereinafter referred to as "Ashbury", and the organisation which is to receive a service from Ashbury, hereinafter referred to as "the Client".

"Proposal" means the formal quotation or proposal containing or referring to the specification of the Course and a quotation of fees by Ashbury to the Client.

"Course" means the Training presentations, workshops, case studies or tutorials to be provided by Ashbury under the Contract as specified in the Proposal.

"Contract" means the agreement between the Client and Ashbury for the execution of the Course and these Terms of Business.

#### 2. VALIDITY

Any quotation or proposal subject to these Terms of Business is subject to acceptance by the Client within 30 days unless previously withdrawn by Ashbury.

#### 3. ALTERATION

3.1 Any alteration to the Course(s) to be provided by Ashbury shall only be effective if agreed in writing and, in the case of Ashbury, signed by an authorised signatory of Ashbury.

#### 4. RESPONSIBILITIES

##### 4.1 Ashbury

4.1.1 Ashbury shall provide the Course for the Client. Ashbury undertakes to assign competent and suitably qualified consultants to provide the Course. If, because of illness or other cause, a consultant becomes unavailable, Ashbury will use all reasonable endeavours to replace the consultant as soon as possible with another of appropriate competence. If it is not possible during the Course to provide a replacement consultant, Ashbury will inform the Client immediately and will arrange a further presentation of the Course at a fee to be agreed with the Client.

4.1.2 Ashbury shall perform the work specified in any alterations to the Course, subject to Paragraph 3, for the Client. This work will be charged at the prevailing per diem fee rates and subject to Ashbury's Per Diem Terms of Business for the Provision of Training Services.

## 4.2 The Client

- 4.2.1 Unless otherwise agreed, the Client will be responsible for the provision of suitable lecture rooms and/or syndicate rooms or meeting rooms, together with the provision of appropriate facilities.

A suitable lecture room means a room of suitable size and ventilation for the number of delegates attending the Course, allowing either an open 'U' arrangement or classroom style together with sufficient space for the consultant's table, overhead projector and screen, and flip-chart and stand. If the Course includes syndicate work on case study material then syndicate rooms/space must be available.

- 4.2.2 When the Course requires special facilities such as data preparation, computers, terminals, modems, video equipment, or slide projectors this will be specified in the Proposal and The Client will be responsible for their provision unless agreed in writing by Ashbury.

## 5. COPYRIGHT AND MARKETING RIGHTS

- 5.1 All intellectual property, marketing and other rights including copyright in all systems, programs, standards, techniques, course manuals, case studies and visual aids or documents provided to the Client by Ashbury or produced, developed and/or applied by Ashbury or its staff (hereinafter referred to as a "Course Item") pursuant to the Contract shall remain vested in Ashbury.

- 5.2 Subject to Clause 5.1, any Course Item may be used by the Client as the Client may require subject to the following restrictions:

- 5.2.1 that if the aforesaid items are made available to a third party, Ashbury is stated as being the originator and the owner of all intellectual property and marketing and other rights in the Course Item and Ashbury is first informed in writing of the identity of the third party concerned.

- 5.2.2 that if the aforesaid items are to be copied from items which are the property of Ashbury, then Ashbury retains all rights in that property, the Client having restricted licence to produce material only for their own use.

- 5.2.3 Course manuals, case studies, visual aids and documents are copyright and may not be reproduced in any form without Ashbury's express permission in writing.

- 5.3 The restrictions in Paragraph 5 shall not apply to Course Items which are specifically excluded either in the Proposal or with the written agreement of an authorised signatory of Ashbury at the time they are made available to the Client.

- 5.4 Ashbury's staff undertake not to disclose any confidential Client information to a third party.

## 6. FEE STRUCTURE

Fees and Expenses

- 6.1 Fees are quoted per course or per series of courses for presentation and per diem for special development or preparation time. Course fees include the standard administrative preparation time, the provision of the number of sets of course materials as specified in the Proposal and presentation of the Course(s).
- 6.2 Development fees include research, conferring with specialist colleagues, development of course materials, trial runs and the use of Ashbury's production facilities where appropriate.
- 6.3 Fees include all time worked on the Course or its development on or off the Client's premises and time, during normal working hours, committed out of Ashbury's offices due to the requirements, location and schedules of the Course(s). When the Client requires significant working outside normal hours a higher fee rate will be charged.
- 6.4 Fees are exclusive of expenses unless otherwise stated. Expenses incurred during the development or presentation of the Course are invoiced in arrears and are payable by the Client. Expenses are due for travel, subsistence including overnight allowances, the transport of materials as incurred during development or presentation and other expenses authorised by the Client. Travel expenses are due for travel to and from the Client's premises as well as other locations involved in the Course or its development. Travel will be charged at Ashbury's pertaining car mileage rate, aircraft, train, taxi or public transport charges as incurred.

## 6.5 Increased Delegates

### 6.5.1 Client Delegates

For each delegate of the Client in excess of the number specified in the Proposal a fee will be incurred. The fee will be that which is specified in the Proposal.

### 6.5.2 Non-Client Delegates

Any delegate attending a course must be a member of the Client's staff or contracted to the Client, unless Ashbury's agreement has been sought. In the event of there being no prior agreement Ashbury reserves the right to change the fee structure and to submit invoices for any differences for fees paid in advance and those then applying. The increase in the fee will be based on the then current course fee for a public course of comparable nature and length presented by Ashbury in the United Kingdom.

## 6.6 Validity

Course fees and per diem fees are valid for three months from the date of the Proposal. Thereafter they are subject to change at one month's notice. When course dates are scheduled at the time of agreement or within one month thereafter, they shall not be subject to the above change of fees. Course(s) scheduled and then cancelled or deferred by the Client are subject to Clause 6.7. Without prejudice to the foregoing, it is noted that Ashbury normally reviews fee rates on 1st January and 1st July.

## 6.7 Cancellation and Deferment

A charge additional to course fees will be due when scheduled Course dates are deferred by the Client or the Course cancelled by the Client within the eight weeks preceding the Course. If the deferment or cancellation is between eight and five weeks before the Course the charge

will be 5% of the full Course fees. If deferment or cancellation is four, three, two or one week(s) before the Course the charge will be 20%, 40%, 60% or 80% of the full Course fee respectively. Full Course fees then apply to any rescheduled Course.

If fees for development effort have been included as part of the Course fee and the Client cancels or defers the Course(s), separate fees will be charged consistent with the development effort undertaken. The Course fee net of the development fees will then form the basis of the charge for deferment or cancellation.

## Invoicing and Payment

6.8 For public courses fees are invoiced at the time of booking and are payable before the beginning of each course.

For private courses fees for the course and expenses are invoiced after the course and are payable within 30 days

6.9 Unless specified otherwise, the Client agrees to pay the amounts due in respect of fees and expenses incurred in connection with the Course(s), plus Value Added Tax and any local taxes which may be due at the prevailing rate.

6.10 In no case shall the Client be entitled to set off in whole or in part any sums due from the Client to Ashbury under the Contract against sums due to the Client from Ashbury under the Contract or in consequence of any dealings between the Client and Ashbury.

## Overdue Accounts

6.11 Fees as stated above are payable in full and payment cannot be delayed or deferred pending the outcome of any claim which may be made by the Client.

6.12 If the Client fails to make any payment when due then in addition to the fees payable (and without prejudice to any other right of Ashbury), interest shall accrue on the amount outstanding on a day to day basis from the due date at two percent (2%) above Barclays Bank plc base rate in force from time to time. Ashbury further reserves the right to cancel or suspend the Contract in the event of an account being overdue.

## Reports and Administration

6.13 Reports on delegates' performance can be provided to the Client when requested in writing by the Client four weeks before the beginning of the Course.

6.14 Certificates of attendance will be provided when requested in writing by the Client four weeks before the beginning of the Course, and following attendance and payment of fees.

## 7. RECRUITMENT OF STAFF

The Client shall not canvas nor permit others to canvas for the services of Ashbury's personnel to conduct work for the client other than as provided herein either during or after the term of the contract. A breach of the foregoing shall be deemed to have occurred in the event that any Ashbury personnel become the Client's employee or otherwise conducts work for the client other than as specifically provided herein, either during the terms of this Contract or a period of

one calendar year from its discharge or termination as the case may be, in which case the Client shall pay to Ashbury an amount calculated at the Daily Rate for that employee multiplied by 180, the said amount falling due for payment within 30 days of commencement of the Client's employment of that employee.

## 8. TERMINATION

8.1 Either party may (without prejudice to its other rights against the other party) by written notice to the other party summarily suspend or terminate this Contract in the event that the other party shall:

- (a) being a corporation go into liquidation whether voluntary, compulsory or under supervision or have a Receiver appointed, or (being a partnership or individual) enter into any Contract with or for the benefit of its creditors or have a Receiving Order in Bankruptcy made against it; or
- (b) be in breach of the terms and conditions of this Contract and fail to rectify such breach within thirty (30) days of receipt of written notice requiring it to do so.

8.2 If Ashbury gives advice to the Client of an increase in fees, as provided by these Terms of Business, and the Client finds the increase unacceptable, the Client may terminate this Contract from the date on which the change comes into operation by giving notice of termination within ten days of Ashbury's advice of change.

## 9. EXCLUSIONS

9.1 No condition is made or to be implied nor is any warranty given or to be implied as to the quality, or conformity with description or sample, of any goods or services supplied, or that they will be suitable for any particular purpose or for use under any specific conditions, notwithstanding that such purpose or condition may be known or made known to Ashbury.

9.2 All claims in respect of loss and damage, except with respect to personal injury or death resulting from negligence, shall be notified to Ashbury in writing within six months after such loss or damage shall have come to the knowledge of the Client or other person, firm or corporation suffering such loss or damage, and any claim not so notified to Ashbury within such time shall be deemed to be waived.

9.3 Ashbury will maintain a Public Liability insurance policy for its liability to the Client for all costs, claims and expenses arising from any personal injury or death or damage to property caused by the negligence of Ashbury, its servants or agents, or by the contracted services, otherwise than where such injury or death or damage is caused by the Client. Ashbury's liability for such losses, costs, claims and expenses shall (excluding personal injury or death for which Ashbury's liability shall be unlimited and damage to property as a result of Ashbury's negligence for which Ashbury's liability shall be £1,000,000) not in any circumstances exceed 150% of the fees paid by the Client to Ashbury and no damages in excess of such amount shall be recoverable. No special or consequential damages or loss of profits shall be recoverable.

## 10 GENERAL

10.1 Ashbury's products and services are offered and supplied on the terms set out in these Terms of Business which shall prevail over any conflicting terms of the Client.

- 10.2 Headings used in these Terms of Business are provided for guidance only and shall not affect the construction thereof.
- 10.3 Neither party shall be liable to the other for any breach of this Agreement caused directly or indirectly by anything outside its reasonable control including (without limitation to the generality of the foregoing) war, hostilities, government action, breakdown, delay in transportation, any form of labour dispute, fire flood or act of God.
- 10.4 The invalidity or unenforceability for any reason or any condition, sub-clause or paragraph of this Contract or any part thereof shall not prejudice or affect the validity or enforceability of the remainder.
- 10.5 The interpretation, validity and performance of this Contract shall be construed according to the Law of England, and subject to the non exclusive jurisdiction of the English courts.