

## STANDARD TERMS AND CONDITIONS

### FOR SUPPLY OF SERVICES BY



The terms and conditions governing the provision of training services by Zycko Limited or its subsidiaries with the exclusion of any other oral or written statement or agreement whatever its legal character

#### 1. DEFINITIONS

In these Conditions the following expressions shall have the following meanings:

- a. 'Zycko Training' means the training service operation of Zycko Ltd; also where the context permits its assigns and any sub-contractor of the said Company.
- b. 'Company's Premises' means the premises mentioned in the Contract or if not so mentioned means the Company's premises at Inda House, The Mallards, Broadway Lane, South Cerney, Cirencester, GL7 5TQ.
- c. 'Contract' means the contract between the Company and the Client under which the Services and/or Goods are to be supplied by the Company to the Client.
- d. 'Goods' means the articles or things to be supplied by the Company to the Client under the terms of the Contract;
- e. 'Services' means the services to be provided by the Company to the Client under the terms of the Contract and - "Service" shall be construed accordingly.
- f. 'The Client' means the person, firm or company with whom the Contract is made by the Company, whether directly or indirectly, through an agent or factor who is acting for or instructed by the Client or whose actions are ratified by such person, firm or company.
- g. 'Working Day' means every day of the week excluding Saturday, Sunday and statutory holidays.
- h. 'Customer' means a company or individual that completes a course registration form
- i. 'Delegate' means the party or parties named as attendees on the course registration form
- j. 'Invoice' means an invoice for the total of charges delivered by The Company to the Client
- k. 'Standard Courses' means those courses as offered in the published course schedules
- l. 'Tailored Courses' means courses requested by the Client which are not offered in the published course schedule and which contain new material not currently contained in any standard courses offered by Zycko Training
- m. 'Course materials' means any documentation listings instructions and statements in either machine readable or printed form
- n. 'Purchaser' means the Client or a party making payment on behalf of the Client.
- o. 'Confirmation' means a legally binding contract instructing The Company to invoice the Client
- p. 'Clause' means a clause in these terms and conditions
- q. 'Purchase' means the 'Client' buying the training goods or service from Zycko Academy s

- r. 'Standard Public Scheduled Courses' means course that can be booked and purchased from the Zycko Training published schedule on a per delegate basis.
- s. 'Private Company Course' means a course not on the Zycko Training schedule, booked and all places purchased exclusively on special request by the Client.
- t. 'End User' means an individual or individuals provided with a service or goods, sold by the Company to the Client, that has been charged a retail price for the service or goods.
- u. 'Waiver' means a voluntary or intentional relinquishment of a known right, claim or privilege.
- v. 'Credit Control' means a department within the Company that controls and regulates financial terms with Clients.

## **2. GENERAL**

- 2.1 These conditions shall be deemed to be incorporated in all contracts and in the case of any inconsistency with any order or letter or correspondence sent by the Client to the Company, or any other communication between the Client and the Company, whatever may be their respective dates the provisions of these Conditions shall prevail unless expressly varied in writing and signed by a director on behalf of the Company.
- 2.2 If the Company chooses not to enforce any of the Conditions of these Conditions this shall not affect the rights of the Company under the remainder
- 2.2 If in any particular case any of these Conditions shall be held to be invalid or shall not apply to the contract, the other Conditions shall continue in full force and effect

## **3. REGULATIONS AND AUTHORISATION**

- 3.1 The Client hereby certifies that all Delegates are employed directly by, or are under contract to the Purchaser and undertakes to bring these terms and conditions to the attention of Delegates.
- 3.2 All bookings of orders however made by any individual group firms or company shall be subject to these terms and conditions
- 3.3 The Client contracts with The Company on its own behalf and on behalf of persons (delegates) who are enrolled by the Client on Zycko Training courses including courses on The Company provided premises (facilities and seminars) or on Client provided premises (onsite courses)
- 3.4 These terms and conditions supersede and replace any previous agreements proposals or representations made between the Client and The Company.
- 3.5 These terms and conditions shall prevail notwithstanding any terms and conditions contained in any order submitted by the Client, any variation must be agreed in writing by the Company. The Waiver by The Company of any breach of any term of this Agreement shall not prevent the subsequent enforcement of that term and shall not be deemed to be a waiver of any subsequent breach.

#### **4. OBLIGATION TO PROVIDE SERVICES AND/OR GOODS**

- 4.1 Notwithstanding that the Company may have given a detailed quotation no request for the provision of Services and no order for the supply of Goods shall be binding on the Company unless and until it has been accepted in writing by the Company and where the Services in question relate to the provision of training Services bookings will only be taken for a course where the Client has provided a valid purchase order number to the Company.
- 4.2 The Company's catalogues, brochures, leaflets or correspondence are not binding and reasonable variations may be made to the Services and/or the Goods without notice and such variations shall be accepted as complying with the Contract.
- 4.3 The Company reserves the right to provide training Services at a venue or venues other than the Company's premises and to provide training personnel of its own choice.
- 4.4 The Company reserves the right to refuse or curtail any training Services if a delegate or substitute delegate attending on behalf of the Client fails to satisfy those requirements for the course notified by the Company to the Client prior to the commencement of such course.

#### **5. PRICES**

- 5.1 The price payable for the Services, unless otherwise stated in the Contract, shall be the fee chargeable by the Company for such Services current at the date of their provision and in the case of the provision of Services over a period of time, the price payable shall, at the option of the Company, be either:
- 5.1.1 The fee current at the date of the provision of the Services in question unless otherwise expressly stated to be fixed or firm for a period: or
- 5.1.2 The fee current at the date of any invoice sent pursuant with credit terms and invoicing of Zycko Limited.
- 5.3 The purchase price of goods or services as quoted in writing by the Company and written in the Client's purchase order to the Company are valid for 3 months from the date of the written quote.
- 5.5 The course fee does not cover travel, accommodation or subsistence expenses of the Client .

#### **6. ACCEPTANCE OF ORDER**

- 6.1 Course bookings may be made provisionally by telephone or email
- 6.2 Course places will be considered as confirmed upon receipt of an official Purchase Order and Zycko Training Booking Form. The course Booking Form must include a Purchase Order number against which an invoice will be raised on course commencement. The Purchase Order form must be received 7 working days before course commencement. No registration will be deemed as confirmed until such time as the Booking Form is received and a confirmation is sent in writing by The Company to the Client.

6.3 Purchase orders from the Client received by the Company less than 7 working days before the start date of course commencement are not a guarantee of purchase acceptance by the Company or placement of the Client's Delegate on a course.

6.3 Provisional bookings can only be held open for 3 working days. If no course Booking Form has been received by the Company within that time then The Company reserves the right to reallocate the place on the course to other Clients.

6.4 The Client's signature on the course booking form will be constituted as confirming the Client's total and unconditional acceptance of these terms and conditions

6.5 The Company's acceptance of the Client's order denoted by the authorised signature on the course booking form will create a contract between The Company and the Client subject to the terms and conditions herein. No amendment will be valid unless agreed in writing by authorised parties of both The Company and the Client.

6.6 Course material will be issued by The Company to the delegate at course commencement and will not be reissued after the course completion date

## **7. THE COURSE**

7.1 The Company undertakes to provide the Training Course on the date specified except when external circumstances prevent this  
The Company reserves the right to alter the location of the course up to two weeks before the start of the course or with immediate notice in the case of Force Majeure (refer to Section 15)

7.2 The Company reserves the right to cancel a course up to the start date of the course. In the event of a course being cancelled by The Company alternative dates will be proposed or a full refund of monies will be made to the Client

7.3 The Company will be happy to advise the prospective Clients on Training Course content. However the Client shall take full responsibility for deciding on the suitability of a particular course for an individual delegate. Prerequisites are clearly stated on course outlines and the Client agrees to these by ticking the box on the booking form.

7.4 The course fee covers tuition, course materials and lunch arrangements. The fee does NOT include transportation and overnight accommodation

7.5 The Client undertakes to provide adequate training and similar facilities for courses scheduled to be held in Client's premises as determined by requirements instructed in writing to the Company prior to the course and pursuant with payment terms

7.6 Unless otherwise stipulated all courses will commence on the start date, as specified by the Company in the current training schedule

*7.7 Notwithstanding Clause 7.2 The Company undertakes to give reasonable notice of cancellation of any*

*course, except in an emergency, where the Client's entitlement to a refund is pursuant with Clause 7.2 The Company shall not otherwise be entitled to compensation or costs or damages arising from any such cancellation*

7.8 In the event of a course being cancelled 48 hours or less prior to the commencement of that course, or at any time during that course, in circumstances arising that are beyond the responsible control of the company as stated in clause 15.1 and may include but not limited to: staff illness, equipment failure, delay of equipment delivery by carriers or being held in Customs crossing international boundaries, the company is not liable for any expenses or staff costs of the customers or personal costs of delegates.

7.9 Customers are strongly advised to have in place insurances or other provisions to fully recover their expenses and costs in the event of the circumstances stated in clause 7.8.

## **8. COPYRIGHT OF COURSE MATERIALS AND DOCUMENT PROPERTY**

8.1 Notwithstanding clause 8.2 All reference materials and equipment provided for use throughout the training course are and shall remain the sole property and copyright of the Company (unless otherwise stated) and shall not be removed from the premises on which the course is held. All rights in materials and courses are reserved. The copying or loan to unauthorised user or hire of any course materials (in whole or in part) provided to delegates is prohibited.

8.2 All course materials provided on courses supplied by The Company remain the property of The Company and are provided solely for the for the delegate's own personal use on the understanding that the contents are confidential and may not be disclosed in whole or in part to any third party (including other employees of the Client) without the prior written consent of the Company

8.3 The Client shall indemnify the Company against all costs claims and damages incurred or threatened arising out of any alleged infringements of patents trademarks registered designs design right or copyright occasioned by the provision of the Services where such Services are provided to the specification or special requirements of the Client and/or by the manufacture or sale of Goods made to the specification or special requirements of the Client.

8.4 The Client shall ensure that its employees and all those under the Client's control and supervision shall comply with the obligations of confidentiality contained in clauses 8.1 and 8.2.

## **9. ADDITIONAL COSTS**

9.1 The Client agrees to pay for any loss or extra cost incurred by the Company through the Client's instructions or lack of instructions or through failure or delay in taking delivery or through any act or default on the part of the Client its servants or employees.

## **10. TERMS OF PAYMENT**

10.1 All transactions between The Company and the Client for training services will require the necessary Client account to be set up through Credit Control if this does not currently exist.

10.2 Course fees are payable by the Client to the Company in advance of attending the Course (delivery of Goods) upon receipt of an invoice from the Company. Client purchase orders to the company are due no later than 15 working days prior to the first day of the course booked.

10.3 Credit terms are subject to review by the Company from time to time and the Company shall at all times have the right to suspend or vary any credit terms granted. If at any time the client should be in default in paying any sums due to the Company or the Company's relationship with the client should be terminated for any reason then all sums due by the client shall be payable immediately to the Company.

10.4 If the Goods are delivered in instalments the Company shall be entitled to invoice each instalment as and when delivery thereof has been made notwithstanding non-delivery of other instalments or other default on the part of the Company.

10.5 If under the terms of the Contract monies due shall be payable by instalments any default by the Client of the payment of any due instalment shall cause the whole of the balance of the sums due to become payable forthwith.

10.6 The sums due to the Company under the Contract shall be due in full in accordance with the terms of the Contract and the Client shall not be entitled to exercise any set-off lien or any other similar right or claim.

10.7 Penalty payments, interest and arrears charges are set in accordance with the Clients account with Zycko Limited.

## **11. CONDITIONS AND WARRANTIES RELATING TO SERVICES**

11.1 The Company warrants and undertakes to provide the Services with reasonable care and skill and that all courses hereunder will be conducted in a professional manner in accordance with generally recognized practices and standards.

11.2 The above warranty is The Company's only warranty relating to the Services and no other warranty or condition, terms or undertakings, statutory or otherwise, express or implied, will apply.

11.3 The Company may help Clients to specify or choose training Services, but the assessment and selection of the Client's chosen training for the Client's purpose remains the Client's ultimate responsibility. The Company undertakes only that in giving such assistance it has acted in good faith and has not been willfully misleading.

## **12. DEFAULT OR INSOLVENCY OF CLIENT**

12.1 If the Client shall be in breach of any of its obligations under the Contract or if any distress or execution shall be levied on the Client's property or assets or if the Client shall make or offer to make any arrangement or composition with its creditors or commit any act of bankruptcy or any bankruptcy petition shall be presented against him or (if the Client is a company) if any Resolution or Petition to wind up such company shall be passed or presented or if a receiver,

administrative receiver or administration or the whole or any part of such company's undertaking, property or assets shall be appointed, the Company in its discretion and without prejudice to any other right or claim may by notice in writing determine wholly, or in part, any and every contract between the Company and the Client or may (without prejudice to the Company's right subsequently to determine the Contract for the same cause should it so decide) by notice in writing suspend further deliveries of Goods and Services until any defaults by the Client are remedied.

### **13 LIMITATION OF LIABILITY**

13.1 Neither party shall be liable to the other for any indirect or consequential loss or damage.

13.2 The Company will indemnify the Client for direct physical injury or death arising out of the provision of the training course to the Client and solely attributable to the negligence of the Company assigned employees acting within n the course of their employment and scope of their authority.

13.3 Except as stated in clause 13.2 The Company shall not be liable for any special indirect incidental or consequential damages including but not limited to loss of profits or arising from loss of data or arising from or in connection with the provision of the training course to the Client.

13.4 The total liability of either party shall not exceed the total sums paid or due to The Company for the specific service provided up to and including 12 months from its commencement.

13.5 The Client shall indemnify and defend Zycko Ltd and its employees in respect of any claim by third parties which are occasioned by or arise from any Zycko Ltd performance or non-performance pursuant to the instructions of the Client or its authorized representative.

13.6 The Client accepts responsibility for compliance by its delegates with these terms and conditions. The Client agrees to indemnify Zycko Ltd in full in respect of any loss damage or injury suffered by Zycko Ltd or its employees by the conduct, act, negligence or omission of the Client or any or its delegates.

13.7 The Company shall not be held responsible for the Client or End User's failure to implement recommended rules on security Equipment nor its implementation of the same where the Client or End User has no technical security policy or security rules in place. The Company cannot accept any liability for breaches in the security of the Client or End User's Equipment or network where the Service is undertaken and provided under the explicit or implicit instruction from the Client or the End User.

13.8 The Company is unable to provide any guarantee in respect of the security of a Client or End User's equipment or network. Security rules provided by the Client or End User shall be applied and any recommendation or suggestions provided by a Company consultant are based on the then current information of vulnerabilities known to The Company and no methods of prediction exist for vulnerabilities that have not yet been identified. The Company shall not be responsible for the security of a Client or End User's network after the Service

has been performed where the Service is undertaken under instruction from the Client.

13.9 Any security enhancements provided by The Company should be implemented on the premise that intrusion will occur at some time in the future. It is the Client's responsibility to put in place proactive and reactive measures to reduce the risk of intrusion to its or its End User's network.

13.10 Where the Contract relates to the supply of Goods the liability of the Company to the Client for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the price payable for the Goods.

13.11 The Company shall not be liable for imperfect work caused by any inaccuracies on any drawing, bills of quantities or specifications supplied by the Client or the End User.

13.12 The Company shall not be liable for any costs claims or damages or expenses arising out of any tortuous act or omission or any breach of the Contract or statutory duty calculated by reference to profits income production or accruals or loss of such profits income production or accruals or by reference to accrual of such costs claims damages or expenses on a time basis.

#### **14. REPRESENTATIONS**

14.1 No statement, description, information, warranty, condition or recommendation contained in any catalogue price list, advertisement or communication or made verbally by any of the agents or employees of the Company shall be construed to enlarge, vary or override in any way any of these Conditions or the Contract.

14.2 Nothing in these Conditions shall have the effect of excluding or limiting liability upon the Company for loss resulting from fraud on the part of the Company.

#### **15. FORCE MAJEURE**

15.1 The Company shall be entitled to delay or cancel delivery or to reduce the amount delivered if it is prevented from or hindered in or delayed in the provision of Services or as the case may be the supply of Goods through any circumstances beyond its reasonable control including but not limited to strikes, lock-outs, accidents or war, fire, acts of God, Civil unrest, acts of terrorism, reduction in or unavailability of power break-down or plant or machinery or shortage or unavailability of raw materials from normal sources of supply.

#### **16. EXPORT CONTROL**

16.1 The Company shall not be obliged to deliver Goods to any territory to which the export of such Goods is prohibited by export control legislation or restrictions affecting the Company.

#### **17. CANCELLATION & CHARGES**



17.1 The Client agrees to pay the following charges to Zycko Ltd in the event that for whatever reason they/their Delegate/s fail to attend, withdraws or transfers from a course prior to the commencement of the course, without providing written notice prior to the scheduled start of the course, pursuant with written notice of cancellation or transfer clauses 17.2 and 17.3. In this respect, a cancellation fee refers to a specific course date and therefore a transfer to a later course counts as a cancellation.

#### **17.2 Written Notice of Cancellation or Transfer – Standard Public Scheduled Courses**

11- 15 working days before: 50% of course fee

0- 10 working days before: 100% of course fee

Cancellations or Transfers by Clients made more than 5 working days before the course is due to begin, will not incur cancellation charges.

#### **17.3 Written Notice of Cancellation or Transfer – Private Company Courses**

0 – 20 working days before: 100% of course fee

Cancellations or Transfers by Clients made more than 20 working days before the course is due to begin, will not incur cancellation charges.

17.4 Save as provided in clauses 17.1, 17.2 and 17.3 hereof the Contract for supply of Goods may not be cancelled except by agreement in writing of both parties and upon the payment to the Company of such amount as may be necessary to indemnify the Company against all loss resulting from the said cancellation.

17.5 If a delegate withdraws from a training course once that course has commenced or does not attend the first day of the course, then the Client shall pay the full value of the Course Invoice to the Company and at the Company's discretion may not rejoin the course.

17.6 The Client may substitute training delegates at any time upon notification in writing to the Company subject to any new delegate complying with the requirements for the course as notified by the Company to the Client.

17.7 Save as provided in clauses 17.1, 17.2 and 17.3 if the Client wishes to change the date of attendance at a particular training course, this will at the discretion of the company and no guarantee given or obligation implied in considering or arranging such as transfer.

17.8 Where the contract does not relate to the provision of public scheduled training Services or Private Company courses, additional terms and conditions specifying a cancellation policy and fees and the scope of service being provided by the Company to the Client will be agreed and the Client will be asked to sign these separately, otherwise the cancellation fees remain pursuant with 17.1, 17.2 and 17.3

### **18. SUB-CONTRACTING**

18.1 The Company reserves the right to sub-contract the whole or any part of the Contract to any person firm or company.

### **19. ASSIGNMENT**

19.1 The Client will not assign the benefit of this agreement without obtaining prior written consent of The Company

## **20. DATA PROTECTION ACT**

20.1 The Client agrees that The Company may make such enquiries and searches and obtain such references as it considers necessary from any person, firm or company including any credit reference agency (which will keep a record of any search made) and may disclose the results of those enquiries, searches and references and any information given by the Client to any credit reference agency or to any other company in any corporate group of which it is a member, to any company or business associated with it and to any person, firm or company acting on The Company's behalf for any purpose connected with The Company's business.

## **21. PROPER LAW**

21.1 Zycko Ltd has no obligation, duty or liability in contract for breaches of statutory duty or otherwise beyond that of a duty to exercise reasonable skill and care.

21.2 The booking and contract shall be subject to English Law, and the contracting parties hereto submit to the exclusive jurisdiction of the courts in England; the forum for settling any disputes under this agreement shall be the English Courts.