

# Terms & Conditions of Business

## Definitions

In all definitions stated herein, the singular includes the plural and vice versa unless otherwise defined.

'Terms' refers to the terms and conditions set out in this document.

'Supplier' refers to Prolog UK Ltd, trading as Prolog Training. A provider of IT training services whose registered address is 292 Wake Green Road, Birmingham B13 9QP.

'Client' refers to the organisation which agrees to purchase services from the Supplier – usually also the recipient of the services.

'Party' refers to either the Supplier or the Client. 'Parties' refers exclusively to both the Supplier and the Client unless otherwise defined.

'Contract' refers to any agreement made between the Client and the Supplier for the provision of Services.

'Training Course' or 'Course' refers to a one day or half day training event on a pre-agreed subject or set of subjects.

'Service' refers to any service which the Supplier may provide to the Client, including but not limited to Training Courses, consultancy, presentations, reporting, analysis and preparation of training courses and materials.

'Course Outline' refers to the overview of the content of a Course and any prerequisites as published on the Supplier's website at the time of booking or as specified in the Course Confirmation if the Course has been tailored for the Client.

'Confirmation' or 'Course Confirmation' refers to the confirmation email or document which the Supplier will send to the Client prior to delivery of a Service, which sets out the specific deliverables, date and location of delivery.

'Service Delivery Date' refers to the scheduled date of delivery of a Service as specified in the Confirmation Document.

'Delegate' refers to a person designated by the Client to attend the Course.

'Cancel' or 'Cancellation' refers to the permanent termination of a contract.

'Postpone' or 'Postponement' refers to a temporary delay in the delivery of a Service. To qualify as Postponement rather than Cancellation, an alternative date must be scheduled within 30 days of the planned Service Delivery Date.

'Fees' refers to payments due to be paid to the Supplier by the Client.

## General

The various provisions of these Terms are severable and if any provision is held to be unenforceable by any court of competent jurisdiction all remaining provisions will be unaffected.

These Terms shall be incorporated into each Contract and shall apply to all Services provided to the Client by the Supplier.

These Terms and the associated Confirmation constitute the entire agreement and supersede any previous Contract related to the same work.

The Contract between the Supplier and the Client shall be made on these Terms only. The Client's own terms and conditions shall not apply to the Contract.

These Terms prevail over any inconsistent terms or conditions stated, referred to, or implied in any other document.

The Client may not, without the written consent of the Supplier assign, transfer, charge or deal in any manner with any right or obligation under a Contract.

Any variations to these Terms shall be made in writing by the Supplier. No employee, agent or partner of the Supplier nor any other person shall have any authority to make any verbal statement or representation purporting to make any effect on a Contract or these Terms.

By placing an order, the Client confirms that it did not rely on any statement, assurance, promise or representation made by any employee or agent of the Supplier that is not expressly set out in these Terms or in the associated Confirmation.

Nothing in these Terms or in a Contract shall or is intended to:

- a) create a partnership between the Parties; or
- b) authorise either party to act as an agent for or representative of the other Party.

## Course Bookings

Provisional Course bookings may be made by phone or email. Such bookings shall be deemed offers from Clients to enter into a Contract with the Supplier, but do not constitute acceptance of the offer until a Confirmation is provided by the Supplier, at which point a Contract will be deemed to have been made between the Parties.

On receipt of the Confirmation, it is the Client's responsibility to check the details contained therein are accurate and suitable for the Client's requirements. Any discrepancies must be brought to the attention of the Supplier immediately. The Supplier shall not be liable for any problem or issue encountered as a result of failure to adequately check the details in the Confirmation.

## Variations and Cancellations

The Supplier undertakes not to invoke contract variations or cancellations purely for economic gain or without just cause, but reserves the right to Cancel, curtail or Postpone delivery of any Service without liability to the Client.

The Supplier shall use its reasonable endeavours to complete the delivery of the Services specified in each Confirmation.

The Supplier shall have no liability to the Client if it is prevented from or delayed in delivering a Service by acts or events outside its reasonable control including but not limited to: accident, illness, hazardous weather, breakdown of machinery or vehicles, failure of a transport network, industrial dispute, power failure, natural disaster, fire, flood, war, civil commotion, terrorist act, malicious damage, interference with equipment, compliance with any law or regulation, direction of the police or military personnel, or default of suppliers or agents.

In the event of the unforeseen unavailability of the scheduled Course instructor, the Supplier shall use reasonable endeavours to provide suitable alternative personnel to deliver the Course or Services, but shall not be held liable for its failure so to do.

The Client may cancel a Contract outright without penalty up to 14 days prior to the Service Delivery Date. If the Client Cancels a Contract between 7 and 14 days prior to the Service Delivery Date, a cancellation Fee of 50% of the Fee specified in the Confirmation will be levied. If the Client Cancels a Contract between 1 and 7 days prior to the Service Delivery Date, a cancellation Fee of 75% of the Fee specified in the Confirmation will be levied. If the Client Cancels a Contract on the Service Delivery Date, a cancellation Fee of 100% of the Fee specified in the Confirmation will be levied.

The Client may Postpone delivery of a Service or part of a Service without penalty up to 24 hours prior to the Service Delivery Date. If the Client requests Postponement of a Service on the morning of the Service Delivery Date, the Supplier may levy a Fee of 50% of the Fee specified in the Confirmation for the Service being postponed. If the Client requests Postponement of a Service on the afternoon of the Service Delivery Date, the Supplier may levy a Fee of 100% of the Fee specified in the Confirmation for the Service being postponed.

The Supplier may treat 3 consecutive Postponements of a Service by the Client as Cancellation, and thereby levy a Cancellation Fee of 50% of the Fee specified in the Confirmation for the Service being postponed. Should the Supplier choose not to levy such a Fee at the time of the third Postponement, it retains the right to do so at any future point up to delivery of the Service.

The Supplier may make minor variations to the content and duration of any Service at any time. Other variations may be requested by either Party at any time, but will not be binding until both Parties accept the variation in writing.

If, in the opinion of the Course instructor, the majority of Delegates attending the Course do not have sufficient experience or abilities to complete the scheduled Course in the allotted time, the instructor may amend the Course content as required to tailor the Course to the Delegate's level of ability.

## **Delegate Suitability and Attendance**

It is the Client's responsibility to ensure that each Course is suitable for their requirements.

All Delegates should have read and understood the Course Outline and meet any prerequisites specified therein. The Supplier shall not be held liable for incomplete delivery of a Course caused by Delegates with insufficient skills or experience delaying progress, and is under no obligation to prolong the Course beyond the times stated in the Confirmation. In such cases, the Supplier has the right to terminate the Course at the finishing time stated in the Confirmation, and charge 100% of the Fee for delivery of the entire Course.

Start and finish times of Courses shall be set out in the Confirmation. It is the Client's responsibility to ensure all Delegates are aware of these times. The Supplier shall not be under

any obligation to make special provision for Delegates who are not present for any part of the Course, and is entitled to charge 100% of the Course Fee irrespective of the number of Delegates who fail to attend any part of the Course.

Should the number of Delegates who attend a Course on a given day be more than the number of Delegates set out in the Course Confirmation, the Supplier may charge an additional Fee for each additional delegate in accordance with the individual Delegate rate published on the Supplier's website at the time of booking.

## Documentation

All documentation provided by the Supplier, including information published on the Supplier's website, with the exception of these Terms and the Course Confirmation, are not binding.

The Supplier shall not be held liable for any immaterial or minor differences between a Course description and the related Course documentation.

All intellectual property rights, including but not limited to copyright, for all documentation provided by the Supplier shall be owned by the Supplier or its licensors.

Where the Supplier provides electronic copies of Course manuals to the Client:

- The Supplier hereby grants each Delegate the right to store and use one electronic copy of the Course manual for their own use. Each Delegate may also print a single copy of any part of the Course manual, for their own use
- Delegates do not have the right to duplicate and share with others any Course manual, whether electronically or printed.
- It is the Client's responsibility to ensure that each Delegate receives an electronic copy of the Course manual or other documentation prior to delivery of the Course, and that each Delegate is aware of their rights and limitations in respect of this matter.

## Equipment

Unless otherwise agreed, training will be delivered using the Client's own computers and software. Where the Supplier has provided equipment including but not limited to laptop computers, computer network equipment and projectors, the Client shall be liable for any loss of or damage to such equipment whilst on the Client's premises.

## Confidentiality

Neither Party shall divulge or use any trade secret or other confidential information relating to the business of the other Party to which it becomes aware.

Both Parties shall keep in strict confidence all personal information relating to the employees and agents of the other Party, and shall restrict such information to such of its employees or agents as need to know for the purpose of discharging its obligations under the Contract.

## Non-Solicitation

The Client may not directly or indirectly induce or procure or attempt to induce or procure the services of any person, partnership or company, introduced to them by the Supplier, for the purposes of providing any service similar to those Services provided by the Supplier.

The Client agrees that damages may not be an adequate or appropriate remedy for such breach and the Supplier reserves the right to seek injunctive or other equitable relief in these circumstances.

## Payment Terms

Course and Service Fees shall be set out in the Confirmation. Such notification of Fees shall take precedence over any inconsistent Fees given or implied in any other document, on the Supplier's website, or in any verbal communication.

The Supplier will usually invoice the Client immediately after delivery of a Course or Service. For Contracts which span more than a single day of service delivery, the Supplier may elect to combine several days of service delivery on a single invoice, but has the right to invoice on a daily basis.

The Supplier reserves the right to invoice in advance of service delivery. In such cases, this will be clearly notified in the Confirmation, and no Service will be delivered until full payment is received by the Supplier.

The Supplier may deliver invoices to the Client either on paper or electronically.

Unless a prior agreement has been made in writing, all invoices are required to be paid within 30 days of invoice date. The Supplier has the right to charge statutory interest and debt recovery costs as permitted by UK law on all overdue invoices.

The Supplier may refuse further delivery of all Services until payment has been made in full.

## Warranty and Liability

Except as may otherwise be expressly provided in these Terms and the Confirmation Document, all warranties, conditions, terms and undertakings, either express or implied, whether by statute, common law or otherwise, are hereby excluded by the Supplier to the fullest extent permitted by law and the Supplier shall have no other obligation, duty or liability whatsoever in contract, tort, statute or otherwise to the Client therefor.

The following provisions set out the entire liability of the parties to each other in respect of:

- a) breach of contract, or breach of statute;
- b) any representations or statements, or tortious acts or omissions including negligence; or
- c) restitution or otherwise,

arising under or in connection with a Contract or these Terms:

The Supplier accepts no liability for the failure of any hardware or software on which the Supplier relies to deliver a Service.

Both Parties' maximum aggregate liability to the other for any and all losses, claims, demands, damages, costs and/or expenses shall not, in total, exceed the Fees actually paid by the Client to the Supplier for the Course or Services which are the subject of the Contract under which the claim arises.

The Supplier shall not be liable to the Client for loss of profits and/or in respect of any incidental, consequential, direct or indirect loss or damage, including but not limited to: loss of use; loss of

goodwill; loss of data or information; loss of business or opportunity; loss of revenue; and/or business downtime.

### **Termination**

Either Party may terminate a Contract without liability to the other if:

- a) the other party ceases to trade or threatens to cease to trade; or
- b) an administrator or receiver is appointed to manage the affairs or any assets of the other Party; or
- c) an order is made or a resolution passed for the winding up of the other Party; or
- d) the other Party applies to or becomes bankrupt.

Termination of a Contract shall not affect the accrued rights of the Parties at the time of termination, including but not limited to payment for all Services previously delivered, and the continuation of any Terms stated herein which are clearly intended to survive such termination.

### **Governing Law and Jurisdiction**

Each Contract is governed by English Law and the Parties submit to the exclusive jurisdiction of the English courts.